

FRAMEWORK AGREEMENT AND CALL OFF AGREEMENT

THE SECRETARY OF STATE FOR JUSTICE

and

RED SNAPPER RECRUITMENT LIMITED

FRAMEWORK AGREEMENT

relating to

The provision of operational temporary workers to the National Probation Service

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THIS AGREEMENT is made on 3rd June 2016.

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR JUSTICE** acting as part of the Crown ("**Authority**");
- (2) **RED SNAPPER RECRUITMENT LIMITED** a company registered in England and Wales under company number 05129360 and whose registered office is at Octavia House, 50 Banner Street, London, EC1Y 8ST ("**Supplier**").

BACKGROUND:

- A The Authority placed the OJEU Notice in the Official Journal of the European Union setting out its intention to establish a multi-supplier framework for the provision of Temporary Workers to the National Probation Service. The framework is to be divided into 3 geographical lots.
- B The Authority issued the Invitation to Tender for the provision of the Services to organisations who responded to the OJEU Notice.
- C The Supplier represented to the Authority that it is capable of delivering the Services in accordance with the Authority's requirements as set out in the Invitation to Tender and, in particular, the Supplier made representations to the Authority in the Tender in relation to its competence, professionalism and ability to provide the Services in an efficient and cost effective manner.
- D On the basis of the Tender, the Authority selected the Supplier to enter into a framework agreement along with a number of other suppliers appointed to the Framework to provide in the case of the Supplier the Framework Service to the Authority and the Temporary Worker Services to the Authority from time to time on a call-off basis in accordance with this Framework Agreement and in the case of other suppliers to provide the same or similar services under similar framework agreements.
- E This Framework Agreement sets out the award and ordering procedure for purchasing the Services which may be required by the Authority, the main terms and conditions for any Call-Off Agreement which the Authority may conclude and the obligations of the Supplier during and after the Term of this Framework Agreement.
- F The Parties agree that there shall be no obligation for the Authority to place any Orders under this Framework Agreement during the Term.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Framework Agreement, including its recitals, the following expressions shall have the following meanings:

“Acquired Rights Directive” means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended;

"Approval" means the prior written consent of the Authority and **"Approve"** and **"Approved"** shall be construed accordingly;

“Approved Premises” means Offices of the National Probation Service (NPS), Offender Management Unit, HM Prisons (HMP), HM Courts & Tribunal Service (HMCTS), NPS Approved Premises (former Probation Hostels) in England and Wales and other locations as required and/or as defined in the Order or otherwise by the Authority;

“Authority Representative” means the Authority’s Contingent Labour Category Team based within the Authority’s Commercial and Contract Management department;

"Authority Confidential Information" means all Authority Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel, and suppliers of the Authority, including all IPRs, together with all information derived from any of the above, and any other information of the Authority clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");

"Authority Data" means:

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:
 - (i) supplied to the Supplier by or on behalf of the Authority;
 - (ii) which the Supplier is required to generate, process, store or transmit pursuant to a Call-Off Agreement; or
 - (iii) any Personal Data for which the Authority is the Data Controller;

"Authority Personal Data" means the personal data supplied by the Authority to the Supplier and for the purposes of or in connection with this Framework Agreement and “personal data” shall have the same meaning as set out in the Data Protection Act 1998;

“Agency Workers Regulations” and “AWR” means the Agency Workers Regulations 2010;

"BACS" means the Banks Automated Clearing System;

“Base Location” means the location (being an Approved Premise), specified by the Authority in the Order at which the majority of the Temporary Worker Services shall be delivered;

"Call-Off Agreement" means a legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of the Temporary Worker

Services or any part thereof made between the Authority and the Supplier comprising an Order and the Call-Off Terms and the Purchase Order;

"Call-Off Commencement Date" means the date specified in the Order forming part of a Call-Off Agreement;

"Call-Off Period" means the period during which the Temporary Worker is to provide the Temporary Worker Services commencing on the Call-Off Commencement Date and expiring on the date of expiry set out in the Order or such earlier date of termination or partial termination of this Call-Off Agreement in accordance with the Law or the provisions of the Call-Off Agreement;

"Call-Off Terms" means the terms and conditions in Part 2 of Framework Schedule 5 (Order and Call-Off Terms);

"CEDR" means the Centre for Effective Dispute Resolution;

"Change in Law" means any change in Law:

- (a) which impacts on the Services or any part thereof and/or this Framework Agreement and/or the Call-Off Terms and which comes into force after the Commencement Date; or
- (b) in the case of a Call-Off Agreement, which impacts on the supply of the Temporary Worker Services and/or the Call-Off Terms which comes into force after the commencement date of the relevant Call-Off Agreement;

"Change of Control" shall have the meaning set out in Clause 12.2.2 (Warranties, Representations and Undertakings);

"Charges" means the fees, disbursements, charges and expenses payable by the Authority under or in connection with a Call-Off Agreement from time to time, which shall be calculated in a manner which is consistent with the Charging Structure as set out in Framework Schedule 2 (Charging Structure);

"Charging Structure" means the structure to be used in the establishment of the charging model applicable to each Call-Off Agreement, which structure is set out in Framework Schedule 2 (Charging Structure);

"Commencement Date" means 04/July/2016;

"Comparable Supply" means the supply of services to another customer which are the same or similar to the Services;

"Comparator" means, in accordance with regulation 5 of the Agency Workers Regulations, an individual who is a permanent employee of the Authority engaged in the same or broadly similar work having regard, where relevant, to whether they have a similar level of qualifications or skills and:

- (a) works or is based at the same establishment; or
- (b) where there is no comparable permanent employee working or based at the same establishment who satisfies the requirements above, works or is based at a different establishment and satisfies those requirements;

"Comparator Information" means information about the Comparator's terms and conditions of employment relating to pay, the duration of working time, night work, rest periods, rest breaks, and annual leave (as further defined in regulation 6 of the Agency Workers Regulations);

"Comparator Rate" means the rate, comparable to the Comparator's rate of pay, which the Temporary Worker will be entitled to be paid as a minimum during a Call-Off Agreement in accordance with the Agency Workers Regulations if and when s/he completes the Qualifying Period. Such rate will include those elements set out in regulation 6(2) of the Agency Workers Regulations, subject to any deductions as required by Law;

"Complaint" means any formal written complaint raised by the Authority in relation to the performance of this Framework Agreement or any Call-Off Agreement in accordance with Clause 43 (Complaints Handling and Resolution);

"Conduct Regulations 2003" means the Conduct of Employment Agencies and Employment Business Regulations 2003 (SI 2003/3319).

"Confidential Information" means the Authority Confidential Information and/or the Supplier Confidential Information but does not include any information which relates to:

- (a) the Supplier's performance under this Framework Agreement or any Call-Off Agreement; or
- (b) the Supplier's failure to pay any Sub-Contractor as required pursuant to Clause 32.8 (Transfer and Sub-Contracting);

"Contract Period" means the period from the Commencement Date to:

- (a) the date of expiry of the Framework Agreement as set out in clause 2.1; or
- (b) following an extension or extensions pursuant to clause 2.2 the date of expiry of the extended period(s);

or such earlier date of termination or partial termination of the Contract in accordance with the Law or the provisions of the Framework Agreement;

"Contract Year" means each consecutive twelve (12) Month period during the Term commencing on the Commencement Date;

"Control" means control as defined in sections 1124 and 450 of the Corporation Tax Act 2010;

"Crown" means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the Welsh Ministers), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

"Data Controller" shall have the same meaning as set out in the Data Protection Act 1998;

"Data Processor" shall have the same meaning as set out in the Data Protection Act 1998;

"Data Protection Legislation" or **"DPA"** means the Data Protection Act 1998 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

"Data Subject" has the meaning given under the Data Protection Act 1998

"Day 1 Rights" means the rights of the Temporary Worker from commencement of a Call Off Agreement:

(a) to be treated no less favourably than the Comparator in relation to the collective facilities and amenities provided by the Customer; and

(b) to be informed by the Customer of any relevant vacant posts with the Customer and to have the same opportunity as the Comparator to find permanent employment with the Customer works or is based at the same establishment, pursuant to regulations 12 and 13 of the Agency Workers Regulations;

"Default" means any breach of the obligations of the relevant Party (including but not limited to a Material Default) or any other default, act, omission, negligence or negligent statement of the relevant Party or in the case of the Supplier, the Supplier Staff and Temporary Workers in connection with or in relation to the subject matter of a Call-Off Agreement and in respect of which such Party is liable to the other;

"DOTAS" means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;

"Employment Business" means an employment business as defined in the Agency Workers Regulations;

"Employment Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations implementing the Acquired Rights Directive;

"Environmental Information Regulations" means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;

"Equalities Provisions" means the provisions set out in Clause 17 of the Framework Agreement;

"Equivalent Services" shall have the meaning set out in Clause 10.3;

"EU Model Clauses" means the standard contractual clauses for the transfer of personal data to processors established in third countries under Directive 95/46/EC of the European Parliament and of the Council, published in the European Commission Decision of 5 February 2010;

"FOIA" means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

"Force Majeure" means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

- (a) any industrial action occurring within the Supplier's or any sub-contractor's organisation; or
- (b) the failure by any sub-contractor to perform its obligations under any sub-contract;

"Framework" means the framework arrangements established by the Authority for the provision of the Services by the Supplier and the other suppliers appointed pursuant to the tender exercise in respect of the OJEU Notice;

"Framework Agreement" means the Clauses of this Framework Agreement together with the Framework Schedules and annexes to them;

"Framework Price(s)" means the price(s) applicable to the provision of the Services set out in Framework Schedule 2 (Charging Structure);

"Framework Services" means the services described in Part A of Framework Schedule 1 (Services) which the Supplier which are provided by the Supplier to the Authority under the Framework Agreement;

"Framework Suppliers" means the suppliers appointed to the Framework;

"Fraud" means any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the Crown;

"Further Competition Award Criteria" means the award criteria to be applied for the award of the Call-Off Agreements with further competition set out in Part 2 of Framework Schedule 4 (Award Criteria);

"General Anti-Abuse Rule" means:

- (a) the legislation in Part 5 of the Finance Act 2013; and
- (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;

"General Change in Law" means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;

"Good Industry Practice" means standards, practices, methods and procedures conforming to the Law and the requirements of any Regulatory Body which is responsible for regulating the Supplier and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in providing the Services or services similar to the Services;

"Grave Misconduct" means grave professional misconduct within Regulation 57(8)(c) of the Regulations and includes misconduct which would be regarded as serious by any Regulatory Body;

"Guidance" means any guidance issued or updated by the UK Government from time to time in relation to the Regulations;

"Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others;

"Implementation Period" means the time between the date the Framework Agreement is signed by both Parties and the Commencement Date;

"Information" has the meaning given under section 84 of the Freedom of Information Act 2000;

"Information Security Requirements" means the Authority's requirements set out in Schedule 10;

"Intellectual Property Rights" or "IPR" means:

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, service marks, logos, database rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, design rights (whether registrable or otherwise), Know-How, trade secrets and moral rights and other similar rights or obligations;
- (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- (c) all other rights whether registrable or not having equivalent or similar effect in any country or jurisdiction (including but not limited to the United Kingdom) and the right to sue for passing off;

"Interest" means the Barclays Plc base rate plus 2% (two per cent) (compounded daily);

"Invitation to Tender" or "ITT" means the invitation to tender (consisting of 4 volumes) issued by the Authority in relation to the OJEU Notice;

"IP Materials" shall be as defined in clause 9.1;

“Key Performance Indicators” or “KPI” means the key performance indicators set out in paragraph 3 of Schedule 6;

“Know-How” means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Services or any part thereof;

“Law” means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, rule of common law, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of Court or directives or requirements of any Regulatory Body, delegated or subordinate legislation;

“Local Delivery Units” means the 69 Clusters of Local Delivery Units covering 152 Local Authority areas and aligned with local authority areas and map to other partnership arrangements including Criminal Justice (Police Force) Areas and Community Safety Partnerships;

“Lot” means each lot detailed in the Tender;

“Material Default” means a material breach by the Supplier of this Framework Agreement and/or any breach by the Supplier of any of the following Clauses: Clause 4.3.2 (Supplier's Appointment), Clause 4.3.3 (Supplier's Appointment), Clause 4.13 (KPI), Clause 4.17 (Technology Requirements), Clause 4.18 (Human Rights), Clause 12 (Warranties and Undertakings), Clause 13 (Prevention of Bribery and Corruption and Tax Non-Compliance), Clause 17 (Non-Discrimination), Clause 24 (Data Protection), Clause 25 (Freedom of Information) and Clause 32 (Transfer and Sub-Contracting);

“Management Information” means the management information detailed in paragraph 2.4 of Schedule 6;

“Mediator” has the meaning set out in Clause 51.5.1 (Dispute Resolution);

“Ministry of Justice Codes” means the Ministry of Justice Codes of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA issued under sections 45 and 46 of the FOIA and available at <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/code-of-practice>;

“Ministry of Justice Guidance” means Ministry of Justice Guidance in relation to section 9 of the Bribery Act 2010 available at <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-guidance.pdf>;

“Month” means an entire calendar month and **“Monthly”** shall be interpreted accordingly;

“NPS” means National Probation Service, part of the National Offender Management Service (“NOMS”), an executive agency of the Ministry of Justice;

“NPS Customer” means an operational regional division of the NPS;

"NPS Hiring Manager" means the NPS employee responsible for the hiring of Temporary Workers within a particular NPS Local Delivery Unit;

"Occasion of Tax Non-Compliance" means:

- (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
 - (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion;

"OJEU Notice" means the contract notice (reference 2016/S 019-029794) dated 28/01/2016, published in the Official Journal of the European Union;

"Order" means an order for the provision of the Temporary Worker Services or any part thereof placed by a the Authority with the Supplier in accordance with the Ordering Procedures and substantially in the form set out in Framework Schedule 5 (Order and Call-Off Terms);

"Ordering Procedures" means the ordering and award procedures specified in Clause 7 (Ordering Procedures) and Framework Schedule 3 (Ordering Procedure);

"Party" means the Authority or the Supplier and **"Parties"** shall be interpreted accordingly;

"Personal Data" shall have the same meaning as set out in the Data Protection Act 1998;

"Portal" means the portal service described in the Response;

"Processing" has the meaning given to it under the Data Protection Act 1998 but, for the purposes of this Framework Agreement, it shall include both manual and automatic processing and **"Process"** and **"Processed"** shall be interpreted accordingly;

"Prohibited Act" means:

- (a) directly or indirectly offering, promising or giving any person working for or engaged by the Authority a financial or other advantage to induce that person to perform improperly a relevant function or activity or reward that person for improper performance of a relevant function or activity; or

- (b) committing any offence:
 - (i) under the Bribery Act 2010; or
 - (ii) under legislation creating offences concerning fraudulent acts; or
 - (iii) at common law concerning fraudulent acts in relation to this Framework Agreement or any other contract with the Authority; or
- (c) defrauding, attempting to defraud or conspiring to defraud the Authority;

"Property" means the property, other than the real property, issued or made available to the Supplier by the Authority in connection Services;

"Public Body" means the "contracting authorities" as defined in the Regulations and **"Public Bodies"** shall be construed accordingly;

"Purchase Order" means a purchase order generated by the Authority and provided to the Supplier;

"Qualifying Period" means twelve (12) continuous calendar weeks during the whole or part of which the Temporary Worker works temporarily for and under the supervision and direction of the Authority in the same role as further defined in Regulation 7 of the Agency Workers Regulations;

"Qualifying Period Rights" means the rights to which the Temporary Worker is entitled under the Agency Workers Regulations upon completion of the Qualifying Period;

"Quarter" means a period of three (3) Months period beginning on 1st January, 1st April, 1st July or 1st October in any year and **"Quarterly"** shall be construed accordingly;

"Regulations" means the Public Contracts Regulations 2015;

"Regulatory Bodies" means government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies (including the Financial Conduct Authority) which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence (i) the matters dealt with in this Framework Agreement; (ii) the matters dealt with in any Call-Off Agreement; (iii) the Supplier and/or (iv) any Services provided by the Supplier, and **"Regulatory Body"** shall be construed accordingly;

"Regulatory Framework" means the Probation Qualifications Regulatory Framework 2010 (England and Wales);

"Relevant Conviction" means other than for minor road traffic offences, any previous conviction (excluding any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 subject to the exemptions specified in Part II of schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023)) that is relevant to the nature of the Services and/or relevant to the work of the Authority including conviction for dishonesty, deception, fraud, money laundering, violence, assault or harassment;

"Relevant Person" means any employee, agent, servant, or representative of the Authority or any other Public Body;

"Relevant Tax Authority" means HMRC, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;

"Replacement Supplier" means any third party service provider appointed by the Authority to supply any services which are substantially similar to any of the services, and which the Authority receives in substitution for any of the services following the expiry, termination or partial termination of the Framework Agreement.

"Request for Information" means a request for information relating to this Framework Agreement, any Call-Off Agreement or the provision of the Services or any part thereof or an apparent request for such information under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;

"Response" means the Supplier's response to the Invitation to Tender and which is set out in Framework Schedule 8 (Supplier's Tender Response) together with the Supplier responses to any clarification questions raised by the Authority;

"Satisfaction Survey" shall have the meaning set out in Clause 20.1 (Satisfaction Monitoring);

"Service Levels" means the service levels set out in Schedule 1;

"Services" means the (i) Framework Services and (ii) the Temporary Worker Services;

"Services Requirements" means the requirements of the Authority for the Temporary Worker Services from time to time as stated in each Order;

"Specific Change in Law" means a Change in Law that relates specifically to the business of the Authority which would not affect a Comparable Supply;

"Sub-Contract" means the Supplier's contract with a Sub-Contractor whereby that Sub-Contractor agrees to provide to the Supplier the Services or any part thereof or facilities or other services necessary for the provision of the Services or any part thereof or necessary for the management, direction or control of the Services;

"Sub-Contractor" means any person appointed by the Supplier to carry out any and or all of the Services;

"Supplier Confidential Information" means any information, however it is conveyed, that relates to the business affairs, developments, trade secrets, Know-How, personnel and suppliers of the Supplier, including all IPRs, together with all information derived from any of the above, and any other information of the Supplier clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");

"Supplier Representative" means the representative appointed by the Supplier from time to time in relation to this Framework Agreement;

"Supplier Staff" means all persons employed by the Supplier together with the Supplier's servants, agents, suppliers consultants and Sub-Contractors (and all

persons employed by any Sub-Contractor together with the Sub-Contractor's servants, consultants, agents and suppliers) used in the performance of the Framework Services;

"Technology Requirements" means the requirements set out in Part C of Schedule 1 as updated by the Authority from time to time;

"Tender" means the Invitation to Tender and the Response;

"Temporary Worker" means a person supplied to the Authority by the Supplier to provide the Temporary Worker Services pursuant to a Call-Off Agreement whether an employee or a Sub-Contractor of the Supplier;

"Temporary Worker Agreement" shall have the meaning set out in clause 5.2;

"Temporary Worker Conditions" means the Temporary Worker Conditions specified at Schedule 9 of the Framework Agreement which a Supplier shall include in every Temporary Worker Agreement;

"Temporary Worker Legislation" means all legislation relating to or in connection with the provision of Temporary Worker Services including:

- a) the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax; and
- b) the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions; and
- c) the Social Security Contributions (Intermediaries) Regulations 2000

"Temporary Worker Rate" means the rate payable to the Temporary Worker by the Supplier as set out in the Charging Structure.

"Temporary Worker Services" means the (i) services described in Part B of Framework Schedule 1 (Services) which the Supplier shall make available to the Authority and/or (ii) which are provided by the Supplier to the Authority under a Call-Off Agreement;

"Term" means as determined in accordance with Clause 2.1 (Term of Framework Agreement);

"Third Party" shall have the meaning set out in Clause 34.1 (Rights of Third Parties);

"VAT" means value added tax in accordance with the provisions of the Value Added Tax Act 1994;

"Welsh Language Scheme" means the Authority's Welsh language scheme as published from time to time;

"Working Day" means any day other than a Saturday, Sunday or public holiday in England and Wales;

"Working Time Regulations" means the Working Time Regulations 1998; and

"Year" means a period of twelve (12) consecutive months.

- 1.2 The interpretation and construction of this Framework Agreement shall all be subject to the following provisions:
- 1.2.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
 - 1.2.2 words importing the masculine include the feminine and the neuter and vice versa;
 - 1.2.3 the words "include", "includes", "including", "for example" and "in particular" and words of similar effect shall be construed as if they were immediately followed by the words "without limitation";
 - 1.2.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
 - 1.2.5 references to any statute, enactment, order, regulation, code, official guidance or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, code, official guidance or instrument as amended or replaced from time to time by any subsequent enactment, modification, order, regulation, code, official guidance or instrument (whether such amendment or replacement occurs before or after the date of this Framework Agreement);
 - 1.2.6 headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement;
 - 1.2.7 references in this Framework Agreement to any Clause, sub-Clause or Framework Schedule without further designation shall be construed as a reference to the clause or sub-clause of, or schedule to, this Framework Agreement so numbered;
 - 1.2.8 references in a Framework Schedule to any paragraph or further designation shall be construed as a reference to the paragraph of the relevant Framework Schedule so numbered;
 - 1.2.9 a reference to a Clause is a reference to the whole of that Clause unless stated otherwise; and
 - 1.2.10 in the event and to the extent only of any conflict between the Clauses and the Framework Schedules, the following order of precedence shall apply:
 - (a) the Clauses;
 - (b) the Framework Schedules (excluding Framework Schedule 8 (Supplier's Tender Response));
 - (c) any documents referred to in the Clauses and the Framework Schedules (excluding in Framework Schedule 8 (Supplier's Tender Response)); and
 - (d) Framework Schedule 8 (Supplier's tender Response) together

with any documents referred to in that Framework Schedule.

2. TERM OF FRAMEWORK AGREEMENT AND CALL-OFF AGREEMENTS

- 2.1 This Framework Agreement shall take effect on the Commencement Date and, unless it is terminated earlier or extended in accordance with its terms or otherwise by operation of Law, shall expire two (2) Years from the Commencement Date.
- 2.2 The Authority shall have the right to extend this Framework Agreement by two separate additional periods of 12 months each by giving at least one (1) Month's written notice to the Supplier of each extension period.
- 2.3 The duration of a Call-Off Agreement shall be as set out in the Order unless extended in accordance with the provisions of clause 33.5 save that in no circumstance shall a Call-off Agreement exceed 23 months.
- 2.4 Subject to clause 33.4 the Charges shall be fixed for the duration of the Framework Agreement and all Call-off Agreements.

3. SCOPE OF FRAMEWORK AGREEMENT

- 3.1 This Framework Agreement governs the relationship between the Authority and the Supplier in respect of the provision of the Services by the Supplier to the Authority.
- 3.2 The Authority may, at its absolute discretion and from time to time during the Term, Order the Temporary Worker Services from the Supplier in accordance with the Ordering Procedures.
- 3.3 The Supplier acknowledges that there is no obligation whatsoever on the Authority to invite or select the Supplier to provide any Temporary Worker Services and/or to purchase any Temporary Worker Services under this Framework Agreement.
- 3.4 No undertaking or any form of statement, promise, representation or obligation shall be made or deemed to have been made by the Authority in respect of the total quantities or values of the Temporary Worker Services to be ordered by them pursuant to this Framework Agreement and the Supplier acknowledges and agrees that it has not entered into this Framework Agreement on the basis of any such undertaking, statement, promise or representation.
- 3.5 The Supplier acknowledges that each Call-Off Agreement is a separate contract.

4. SUPPLIER'S APPOINTMENT

- 4.1 The Authority hereby appoints the Supplier;
- 4.1.1 to provide the Framework Services to the Authority in relation to the Lot 1 (North West & North East), Lot 2 (Wales, Midlands, South Central and South West) and Lot 3 (London and South East) divisions during the Term; and
- 4.1.2 as a potential provider of, and the Supplier shall be eligible to be considered for the award of Orders for, the Temporary Worker Services by the Authority in the Lot 1 (North West & North East), Lot 2 (Wales, Midlands, South Central and South West) and Lot 3 (London and South East) divisions during the Term; and

- 4.2 In consideration of the Supplier agreeing to enter into this Framework Agreement and to perform its obligations under it the Authority agrees to pay and the Supplier agrees to accept on the signing of this Framework Agreement the sum of five (£5.00) pounds sterling (receipt of which is hereby acknowledged by the Supplier).
- 4.3 If the Supplier is more than one entity acting as a consortium:
- 4.3.1 each entity that is a member of the consortium shall be jointly and severally liable for performance of the Supplier's obligations under this Framework Agreement; and.
- 4.3.2 the Supplier shall at all times act as the primary member and shall notify the Authority, immediately upon becoming aware:
- (a) of any intention to make any changes to the consortium members including the appointment of new consortium members; or
- (b) if a consortium member has left the consortium; and
- 4.3.3 the Supplier shall not make any changes to the consortium members without Approval.
- 4.4 Clause 4.3 shall not apply if the consortium has, in accordance with regulation 19 of the Regulations assumed a specific legal form to ensure the satisfactory performance of the Framework Agreement.
- 4.5 The Supplier acknowledges and agrees that the Customer relies on the skill and judgment of the Supplier in the supply of the Services and the performance of its obligations under this Framework Agreement and/or a Call-Off Agreement.
- 4.6 The Supplier shall at all times maintain accreditation with the relevant quality standards authorisation body. To the extent that the standard to which the Services must be provided has not been specified in the Contract, the Supplier shall agree the relevant standard for the provision of the Services with the Authority prior to the supply of the Services commencing and in any event, the Supplier shall perform the Services in accordance with the Law and Good Industry Practice.
- 4.7 The Supplier shall ensure that the Supplier Staff shall at all times:
- 4.7.1 faithfully and diligently perform those duties and exercise such powers as necessary in connection with the provision of the Framework Services;
- 4.7.2 obey all lawful instructions and reasonable directions of the Authority and provide the Framework Services to the reasonable satisfaction of the Authority; and
- 4.7.3 apply all due skill, care, diligence and are appropriately experienced, qualified and trained.
- 4.8 The Supplier shall perform its obligations under the Framework Agreement in a timely manner.
- 4.9 The Supplier shall appoint a Supplier Representative who shall:

- 4.9.1 have 2 years' experience of managing an account with similar complexities to this requirement and be fully aware of the requirements of this Framework Agreement;
 - 4.9.2 be the primary point of contact for the Authority's Representative regarding the performance of the Framework Agreement;
 - 4.9.3 Be available to be contacted by the Authority between 08:30 and 18:00 Monday to Friday; and
 - 4.9.4 have the Supplier's authority to undertake any actions required to fulfil the Supplier's obligations under the Framework Agreement.
- 4.10 For periods when the Supplier Representative is absent, a second named individual who should also meet the requirements of clause 4.9 must be available to the Authority. The Supplier must notify the Authority Representative in writing of any change to the Supplier Representative.
- 4.11 The Supplier shall ensure that the Temporary Workers shall at all times:
 - 4.11.1 faithfully and diligently perform those duties and exercise such powers as necessary in connection with the provision of the Temporary Worker Services;
 - 4.11.2 obey all lawful instructions and reasonable directions of the Authority and provide the Temporary Worker Services to the reasonable satisfaction of the Authority; and
 - 4.11.3 apply all due skill, care, diligence and are appropriately experienced, qualified and trained.
- 4.12 The Supplier shall at all times ensure that:
 - 4.12.1 the Temporary Worker Services conform in all respects with the specifications set out in the Order Form and/or where applicable the Framework Agreement;
 - 4.12.2 Temporary Worker Services operate in accordance with the relevant specifications and correspond with all requirements and standards as set out in this Framework Agreement and the applicable Call-Off Agreement; and
 - 4.12.3 the Temporary Worker Services conform in all respects with all applicable Laws
- 4.13 The Supplier shall provide the Framework Services to meet or exceed the Service Levels and the KPI. Serious and/or persistent failure by the Supplier to achieve the KPIs shall be deemed a Material Default and shall entitle the Authority to terminate the Framework Agreement in accordance with clause 27.8;
- 4.14 The Supplier shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Supplier's performance of the Framework Services against the applicable Service Levels and KPI at a level of detail sufficient to verify compliance with the Service Levels and KPI.

- 4.15 The Authority may in its sole discretion refuse any member of the Supplier Staff and/or any Temporary Worker who has not been subjected to the necessary checks by the Disclosure and Barring Service access to its Base Location.
- 4.16 During the Implementation Period, the Supplier must submit to the Authority a comprehensive contact list of the recruitment consultants that the NPS Hiring Manager will work with. There should be a primary and secondary contact name provided in all instances. The Supplier will be expected to build local working relationships with recruiting managers and develop a local knowledge of likely requirements/supply issues within all areas within the Lots which they have been awarded.
- 4.17 The Supplier must comply with the Technology Requirements where it provides a portal service to the Authority. Failure to comply with the Technology Requirements shall be deemed a Material Default and shall entitle to Authority to terminate the Framework Agreement in accordance with clause 27.8;
- 4.18 The Supplier, Supplier Staff, Temporary Workers, its Sub-Contractors and their agents and staff shall at all times comply with the provisions of the Human Rights Act 1998 in the execution of this Framework Agreement. The Supplier acknowledges that any breach of this Clause 4.18 shall constitute a Material Default of the Framework Agreement and consequently the Authority may exercise its rights under Clause 27.8 of this Contract as a result of the occurrence of any such failure.
- 4.19 The Supplier, Supplier Staff, Temporary Workers, its Sub-Contractors and their agents and staff shall at all times comply with their legal obligations in the fields of environmental, social and labour law.
- 4.20 The Supplier shall:
- 4.20.1 promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of its obligations under this Framework Agreement or any Call-off Agreement;
 - 4.20.2 ensure that all Temporary Workers and Supplier Staff comply with any health and safety measures implemented by the Authority in respect of its staff and other persons whilst on Approved Premises.
 - 4.20.3 notify the Authority immediately in the event of any incident occurring in the performance of the Services on the Approved Premises where that incident causes any personal injury or any damage to property; and
 - 4.20.4 take all measures necessary to comply with the requirements of all Laws (including, without limitation, the Health and Safety at Work Act 1974) which may apply to the Supplier in the performance of the Services.
- 4.21 The Authority shall as soon as reasonably possible notify the Supplier of any health and safety hazards of which the Authority is aware which may exist or arise at the Approved Premises and which may affect the Supplier in the performance of the Services.
- 4.22 The Supplier, Supplier Staff, Temporary Workers, its Sub-Contractors and their agents and staff shall at all times comply with the Welsh Language Scheme.

5. TEMPORARY WORKER SERVICES

- 5.1 In respect of every Call-Off Agreement the Supplier shall procure that the Temporary Worker carries out the Temporary Worker Services.
- 5.2 The Supplier shall procure that the Temporary Worker Conditions, or terms substantively similar are reflected in any contract between the Supplier and the Temporary Worker (the "**Temporary Worker Agreement**"). In the event of any conflict between the Temporary Worker Conditions and the other provisions of the Temporary Worker Agreement the former shall prevail.
- 5.3 The Supplier acknowledges that if for any reason the Authority is dissatisfied with the performance of a Temporary Worker it may terminate the Call-off Agreement immediately and the Authority may exclude the Supplier from proposing that Temporary Worker for any further Temporary Worker Services unless otherwise agreed with the Authority.
- 5.4 If so requested by the Authority the Supplier shall procure that the Temporary Worker enters into:
- 5.4.1 a direct confidentiality agreement on terms acceptable to the Authority; and
- 5.4.2 a direct agreement with the Authority on terms acceptable to the Authority.
- 5.5 The Supplier shall procure that all Temporary Worker Agreements include a provision which reserves, for the Authority, third party rights under the Contracts (Rights of Third Parties) Act 1999 which permit the Authority to enforce the terms of the Temporary Worker Agreement, as if it were the Supplier and the Supplier shall provide the Authority with such assistance as the Authority may require from time to time in order to exercise such right including to enforce the Temporary Worker Conditions.
- 5.6 The Supplier acknowledges that the Authority is entitled to and may contact a Temporary Worker requesting information to demonstrate that the Temporary Worker has complied and continues to comply with all obligations imposed upon the Temporary Worker by the Temporary Worker Legislation. The Authority may share such data with HMRC, Government departments (including their arm's length bodies) or such other regulatory bodies as may be necessary to determine compliance with the Temporary Worker Legislation.
- 5.7 If and to the extent that:
- 5.7.1 the Temporary Worker does not provide the information referred to in Clause 5.6 above within such time period as may reasonably be requested by the Authority; or
- 5.7.2 the information provided by the Temporary Worker in accordance with Clause 5.6 above is inadequate to demonstrate that the Temporary Worker has and continues to comply with the obligations on the Temporary Worker imposed upon the Temporary Worker by the Temporary Worker Legislation; or
- 5.7.3 the information provided by the Temporary Worker in accordance with Clause 5.6 above demonstrates that, at any time the Temporary Worker has not or is not complying with obligations imposed on the Temporary Worker by the Temporary Worker Legislation, then the Authority may terminate the Call-Off Agreement immediately and the Supplier shall or

shall procure termination of the Temporary Worker Agreement relating to the Assignment on the specified date or immediately where no date is specified.

- 5.8 The Supplier agrees that the Authority shall not have any liability to the Supplier in respect of any Call-Off Agreement terminated in accordance with Clause 5.7.3, save that the Authority shall pay any Charges due or accruing in respect of the Call-Off Agreement in relation to Temporary Worker Services rendered prior to termination.
- 5.9 If so requested by the Authority from time to time, the Supplier shall promptly provide the Authority with a copy of any Temporary Worker Agreement. The Supplier shall notify the Authority if any variations are made to the Temporary Worker Agreements after the copies of the unvaried versions have been provided to the Authority and if so requested by the Authority shall promptly provide to the Authority a copy of the Temporary Worker Agreement as varied.
- 5.10 The Temporary Worker shall be regarded at all times as being an employee of the Supplier or having a contract for services with the Supplier and no relationship of employer and employee shall arise between the Authority and the Temporary Worker under any circumstances regardless of the degree of supervision that may be exercised over the Temporary Worker by the Authority.
- 5.11 In the event that the Temporary Worker asserts for any reason that he is or has become an employee of the Authority, then in such circumstances, if the Supplier is aware of the same, the Supplier shall notify the Authority in writing as soon as reasonably practicable upon becoming aware of the same. Upon receipt of such written notification, the Supplier and the Authority agree that they shall consult with each other as soon as reasonably practicable and take such action as the parties mutually agree.
- 5.12 The Supplier will indemnify in full and hold the Authority harmless from and against all and any claims, proceedings, actions, damages, costs, expenses and any other liabilities incurred or suffered by the Authority (whether in respect of remuneration or otherwise) arising out of or in connection with any claim or assertion that the Temporary Worker is or was an employee or worker of the Authority where it arises out of or in connection with any act or omission of the Supplier. This Clause 5.12 shall not apply in circumstances where:
- 5.12.1 the Authority offers to employ or engage the Temporary Worker; or
- 5.12.2 acts or omissions of the Authority outside the course of ordinary day to day activities cause such claim or assertion.
- 5.13 The Supplier shall provide all the equipment necessary for the supply of the Services. In the event that the Supplier brings any equipment onto the Authority's premises it shall be at the Supplier's own risk and the Authority shall have no liability for any loss of or damage to any equipment unless and to the extent that the Supplier is able to demonstrate that such loss or damage was caused by or contributed to by the Authority's Default.
- 5.14 Where the Authority issues Property free of charge to the Temporary Worker:
- 5.14.1 such Property shall be and remain the property of the Authority and the Supplier irrevocably licences the Authority and its agents to enter upon any premises of the Supplier during normal business hours on reasonable notice to remove any such Property. The Supplier shall not in any

circumstances have a lien or any other interest on the Property and the Supplier shall at all times possess the Property as fiduciary agent and bailee of the Authority; and

- 5.14.2 the Supplier shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all Supplier Staff and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority; and
- 5.14.3 the Property shall be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies the Authority otherwise within five (5) Working Days of receipt; and
- 5.14.4 the Supplier shall maintain the Property in good order and condition (excluding fair wear and tear) and shall use the Property solely in connection with this Call-Off Agreement and for no other purpose without prior Approval; and
- 5.14.5 the Supplier shall ensure the security of all the Property whilst in its possession, either on the Base Location or elsewhere during the supply of the Services, in accordance with the Authority's reasonable security requirements as required from time to time; and
- 5.14.6 the Supplier shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Authority's Default. The Supplier shall inform the Authority immediately upon becoming aware of becoming aware of any defects appearing in, or losses or theft or damage occurring to, the Property.
- 5.15 The hours of work of the Temporary Worker shall be as agreed between the Temporary Worker and the Authority. Where the Authority requests that additional hours be worked, the Supplier shall use reasonable endeavours to procure that the Temporary Worker complies with such request. The cost of any additional hours if not previously agreed between the Parties will be subject to the agreement of the Parties.
- 5.16 The Supplier shall notify the Authority as soon as possible of Temporary Worker absences.
- 5.17 Temporary Workers may be required to travel between Approved Premises in order to perform the Temporary Worker Services. Expenses for travel (not including travel between the Temporary Worker's home and Base Location) will be paid in line with current Authority travel and subsistence rates but only when prior authorisation from the Authority has been given that travelling between locations is required to be undertaken to carry out the required duties). No expenses are payable for travel by a Temporary worker between a Temporary Worker's home and Base location.

6. **SECURITY VETTING**

- 6.1 The Supplier shall ensure that all Temporary Workers have been subject to :
 - 6.1.1 A current and valid right to work check in accordance with sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 (the 2006 Act). The Supplier must ensure that Temporary Workers are eligible to work in the United Kingdom. In doing so the guidance in the Government Baseline

Personnel Security Standard (BPSS) should be followed:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/365602/hmg_baseline_personnel_security_standard.pdf.

Within this, the Supplier shall also provide the following:

- (a) An identity check - to check a candidate's full name, signature, date of birth, full permanent address;
- (b) A language check - or other language competency test as may be required by the department; and
- (c) A BPSS check, conducted in accordance with the HMG BPSS. (see Cabinet Office BPSS located on the gov.uk website), comprising:
 - (i) An identity check;
 - (ii) A verification of nationality and immigration status;
 - (iii) A verification of employment history; and
 - (iv) A verification of criminal record.

- 6.1.2 An authenticity check - the Supplier must be able to demonstrate that all documents (not just those for verification of identity) are checked for authenticity and that the verification process is cumulative by the use of intelligent cross-referencing. In doing so the Supplier must apply the guidance in the current version of the good practice guide on pre-employment screening- document verification from the centre for the protection of national infrastructure (see website below).

[Www.cpni.gov.uk/advice/personnel-security1/screening/](http://www.cpni.gov.uk/advice/personnel-security1/screening/)

- 6.1.3 A qualification check – the Supplier must carry out a qualification check to verify that the information about education, training or essential professional qualifications provided by each Temporary Worker in support of their CV is correct. Temporary Workers must hold qualifications recognised in the United Kingdom. If there is any doubt that qualifications are genuine, the Supplier must contact the National Academic Recognition Centre (NAIRC) at www.naric.org.uk. Copies of qualification verification should be included with the CV Authority.
- 6.1.4 An employment history and reference check. The Supplier must ensure that each Temporary Worker's CV must detail the full employment history for a minimum of three years continuous employment (or all years since their employment history started, if less than three), with no unexplained gaps. The Supplier must cross-check each employment history against appropriate employment references, especially in respect of dates of employment and positions held. As a minimum, references are required from the employers for each candidate's two most recent substantial assignments.

- 6.2 Temporary Workers will be required to undertake a BPSS check (see clause

6.1.1(c)) and an enhanced Disclosure & Barring Service (DBS) check (both of which the agency must perform). The provider must conduct the DBS check on Temporary Workers before submitting the name of a Temporary Worker to the Authority for consideration. Evidence that the BPSS check has been completed along with the original DBS certificate must be presented by the Temporary Worker to the Authority together with qualification certificates prior to/on day one of a Call-off Agreement.

6.3 Where there are offences identified on the DBS certificate it may not be possible to deploy a Temporary Worker immediately until a judgement is made on their suitability. The Supplier should notify the NPS Hiring Manager of any such offences at time of the CV being sent. The NPS Hiring Manager will action this for verification as soon as possible in order that a response can be advised. An email response from the NPS Hiring Manager will be sent to the Supplier. This must be received before the Order can be progressed further.

6.4 The Supplier must confirm at the time of submission of CVs that the Temporary Workers are fit to practice. The Supplier processes around ensuring that the Temporary Workers are fit to practice are:

- confirming the Temporary Workers have the right to live and work in the UK (as detailed in the specifications contained within NPS ITT Volume 3.doc embedded in Framework Schedule 7(Invitation to Tender));
- confirming the Temporary Workers have appropriate and relevant qualifications and experience to enable them to conduct their roles (as detailed in the specifications contained within NPS ITT Volume 3.doc embedded in Framework Schedule 7(Invitation to Tender));
- ensuring the Temporary Workers are fully conversant with, or able to learn quickly, NOMS technologies particularly nDelius, OASYS, RSR (and potentially SARA) to enable them conduct their roles; and
- ensuring the Temporary Workers have up to date knowledge and training on applicable /current legislation, practices and procedures pertaining to their roles.

6.5 The Supplier will need to provide evidence that the employee has been asked and shall provide copies of the response to the following questions:

- (a) Have you ever been dismissed from a probation setting within the last 5 years?
- (b) Have you been subject to conduct and disciplinary proceedings within the past 5 years?

6.6 The Supplier must have in place a process for ongoing personal security vetting.

6.7 The Authority shall be entitled to require all Temporary Workers to undertake such additional security vetting checks as it may reasonably require from time to time.

6.8 For the avoidance of doubt, the Supplier shall ensure that it complies with the requirements of clauses 6.1 to 6.5 in advance of proposing a particular Temporary Worker.

7. GENERAL SECURITY REQUIREMENTS

- 7.1 The Supplier shall ensure that all Supplier Staff and Temporary Workers comply with the Authority's security arrangements when at Approved Premises or other Authority premises.
- 7.2 The Authority shall require all Temporary Worker to comply with any security arrangements that may be issued from time to time and this will include a requirement for Temporary Workers to sign, and comply with, a confidentiality undertaking.
- 7.3 The Authority shall have the right, at its absolute discretion, to require the Supplier to remove, or permanently exclude, any person from its premises and will observe its obligations under the DPA than prohibits disclosure of details that might inform any such decision.
- 7.4 The Supplier shall take all measures necessary to comply with the provisions of any enactment relating to security which may be applicable to the Supplier in the performance of the provisions of the Framework Agreement and any Call-off Agreement, including the provisions of the official secrets acts 1911 to 1989.
- 7.5 The Supplier shall take all reasonable measures, by the display of notices or other appropriate means, to ensure that Temporary Workers and Supplier Staff have notice that all provisions referred to in the above clause 7.4 will apply to them and will continue to apply to them, if so applicable, after the expiry or earlier termination of the Framework Agreement. Any confidentiality undertaking to be signed by Temporary Workers and Supplier Staff in accordance with the below clause shall include a reference to the official secrets acts 1911 to 1989.
- 7.6 Whilst on any Approved Premises, Temporary workers and Supplier Staff shall comply with all security measures implemented by the Authority in respect of staff and other persons attending those premises. The Authority shall provide copies of its written security procedures to the supplier on request. The Supplier and Temporary Workers and Supplier Staff shall not take any photographs in the Approved Premises without the Authority's Approval and with a member of the Authority's staff present so as to have full control over the subject matter of each photograph to be taken. No such photograph shall be published or otherwise circulated without the Authority's Approval.
- 7.7 The Authority shall have the right to carry out any search of Temporary Workers and Supplier Staff or of vehicles used by the Supplier at the Approved Premises.
- 7.8 The Supplier shall co-operate with any investigation relating to security which is carried out by the Authority or by any person who is responsible to the Authority for security matters and when required by the Authority:
- 7.8.1 shall take all reasonable measures to make any Temporary Workers and Supplier Staff identified by the Authority be available to be interviewed by the Authority, or by a person who is responsible to the Authority for security matters, for the purposes of the investigation. Temporary Workers and Supplier Staff shall have the right to be accompanied by any person whose attendance at the interview is acceptable to both the Authority and the Supplier; and
- 7.8.2 shall, subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind which may reasonably be required by the Authority or by a person who is responsible to the Authority for security matters, for the purposes of the investigation, so long

as the provision of that material does not prevent the Supplier from performing the Framework Agreement. The Authority shall have the right to retain any such material for use in connection with the investigation and, so far as possible, shall provide the Supplier with a copy of any material retained.

8. **NON-EXCLUSIVITY**

The Supplier acknowledges that, in entering into this Framework Agreement no form of exclusivity has been conferred on, or volume guarantee granted by the Authority in relation to the provision of the Services by the Supplier and that the Authority is at all times entitled to enter into other contracts and agreements with other suppliers for the provision of any or all services which are the same as or similar to the Services.

9. **INTELLECTUAL PROPERTY**

9.1 Intellectual Property Rights in any guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material (the "**IP Materials**"):

9.1.1 furnished or made available to the Supplier by or on behalf of the Authority shall remain the property of the Authority; and

9.1.2 prepared by or for the Supplier on behalf of the Authority for use, or intended use, in relation to the performance by the Supplier of its obligations under this Framework Agreement and any Call-off Agreement shall belong to the Authority;

and the Supplier shall not, and shall procure that the Supplier's Staff and Temporary Workers shall not, (except when necessary for the performance of this Framework Agreement and any Call-off Agreement) without prior Approval, use or disclose any such Intellectual Property Rights in the IP Materials.

9.2 Subject to any pre-existing Intellectual Property Rights the Supplier hereby assigns to the Authority, with full title guarantee, all Intellectual Property Rights which may subsist in the IP Materials prepared in accordance with clause 9.1.2. This assignment shall take effect on the Commencement Date or as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Supplier. The Supplier shall execute all documentation necessary to execute this assignment.

9.3 The Supplier shall waive or procure a waiver of any moral rights subsisting in copyright produced by the Supplier and/or any Temporary Worker for the performance of this Agreement.

9.4 The Supplier shall use best endeavours to ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform this Agreement grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty free and irrevocable and shall include the right for the Authority to sub-licence, transfer, novate or assign to other Contracting Authorities (as defined in the Regulations), the Replacement Supplier or to any other third party supplying goods or services to the Authority.

- 9.5 The Supplier shall not and shall ensure that a Temporary Worker shall not infringe any Intellectual Property Rights of any third party in supplying Services and the Supplier shall, during and after the Contract Period, indemnify and keep indemnified and hold the Authority and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown may suffer or incur as a result of or in connection with any breach of this clause, except where such claim arises from:
- 9.5.1 items or materials based upon designs supplied by the Authority; or
 - 9.5.2 the use of data supplied by the Authority which is not required to be verified by the Supplier under any provision of this Agreement.

- 9.6 The Authority shall notify the Supplier in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied or licensed by the Supplier.
- 9.7 The Supplier shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights in materials supplied or licensed by the Supplier, provided always that the Supplier shall:
- 9.7.1 consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;
 - 9.7.2 take due and proper account of the interests of the Authority; and
 - 9.7.3 not settle or compromise any claim without the Authority's prior written consent (not to be unreasonably withheld or delayed).
- 9.8 The Authority shall at the request of the Supplier afford to the Supplier all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority or the Supplier by a third party for infringement or alleged infringement of any third party Intellectual Property Rights in connection with the performance of the Supplier's obligations under this Framework Agreement or any Call-off Agreement and the Supplier shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Supplier shall not, however, be required to indemnify the Authority in relation to any costs and expenses incurred in relation to or arising out of a claim, demand or action which relates to the matters in clause 9.5.1 or 9.5.2.
- 9.9 The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right by the Authority or the Supplier in connection with the performance of its obligations under this Agreement.
- 9.10 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Framework Agreement or in the reasonable opinion of the Supplier is likely to be made, the Supplier shall notify the Authority as soon as reasonably practicable and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), use its best endeavours to:
- 9.10.1 modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply mutatis mutandis to such modified Services or to the substitute Services; or
 - 9.10.2 procure a licence to use and supply the Services, which are the subject of the alleged infringement, on terms which are acceptable to the Authority;
- and in the event that the Contractor is unable to comply with clauses 9.10.1 or 9.10.2 within 20 Working Days of receipt of the Contractor's notification the Authority may terminate this Framework Agreement by notice in writing.
- 9.11 The Supplier grants to the Authority a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) (and where appropriate worldwide) to use any Intellectual Property Rights that the Supplier owned or developed prior to the Commencement Date and which the Authority reasonably requires in order to exercise its rights and take the benefit of this Agreement including the Services provided.

10. ORDERING PROCEDURES

- 10.1 The Authority shall be entitled at any time, during the Term to place an Order for the Temporary Worker Services with the Supplier by serving an Order in accordance with Framework Schedule 3 (Ordering Procedure).
- 10.2 The Supplier shall comply with the relevant provisions in Framework Schedule 3 (Ordering Procedure).
- 10.3 In the event that the Authority makes an approach to the Supplier with a request for the supply of services which are the same as or similar to the Services ("**Equivalent Services**"), the Supplier shall promptly and in any event within five (5) Working Days of the request by the Authority, and before any supply of Equivalent Services is made, inform the Authority of the existence of this Framework Agreement.

11. TIMESHEETS AND INVOICING

- 11.1 Suppliers must have a process in place to ensure that Temporary Workers can accurately record their hours/expenses on a timesheet which must be authorised by the relevant NPS office manager / senior probation officer. These timesheets must be submitted to the Authority's shared services centre with the relevant invoice as supporting evidence that the hours have been delivered and approved. Invoices without evidence of timesheet approval will not be approved. Copies of timesheets must also be sent to the relevant NPS Local Area Central Processing Offices ("NPS Hubs") and the Authority Representative.
- 11.2 Individual Purchase Orders will be issued for each Temporary Worker, and the relevant NPS Hub will generate a separate Purchase Order for all their report writing requirements. Suppliers must be able to provide electronic and hard copy invoices that reference the correct Purchase Order numbers for each requirement.
- 11.3 Invoices must include the name of the Temporary Worker, location, name of hiring manager/approving manager, hours completed/report completed, cost per hour/report and Purchase Order number.
- 11.4 Invoices and timesheets must be sent to the Authority within a maximum of 72 hours after the timesheet has been authorised.
- 11.5 The signing by the Authority of timesheets shall not be construed as implying the Supplier's or the Temporary Worker's compliance with the Framework Agreement and/or Call-off Agreement.

12. WARRANTIES AND UNDERTAKINGS

- 12.1 The Supplier warrants and undertakes to the Authority that:
- 12.1.1 it has full capacity and authority and all necessary consents to enter into and to perform its obligations under this Framework Agreement;
- 12.1.2 this Framework Agreement is executed by a duly authorised representative of the Supplier;
- 12.1.3 in entering into this Framework Agreement it has not committed any Fraud;
- 12.1.4 all information, statements, warranties and representations contained in the Tender and (unless otherwise agreed by the Authority in writing) any other document which resulted in the award to the Supplier of a place on the Framework are true, accurate, and not misleading save as may have been specifically disclosed in writing to the Authority prior to the execution of this Framework Agreement and it

shall promptly advise the Authority in writing of any fact, matter or circumstance of which it may become aware which would render any such information, statement, warranty or representation to be false or misleading if repeated;

- 12.1.5 it has not entered into any agreement with any other person with the aim of preventing tenders being made or as to the fixing or adjusting of the amount of any tender or the conditions on which any tender is made in respect of the Framework;
- 12.1.6 it has not caused or induced any person to enter any such agreement as is referred to in Clause 12.1.5;
- 12.1.7 it has not offered or agreed to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done any act or omission in relation to any other tender or proposed tender for Services under the Framework;
- 12.1.8 it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;
- 12.1.9 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress, or, to the best of its knowledge and belief pending or threatened against it or any of its assets which will or might affect its ability to perform its obligations under this Framework Agreement;
- 12.1.10 it is not subject to any contractual obligation, compliance with which will be likely to have an adverse effect on its ability to perform its obligations under this Framework Agreement;
- 12.1.11 no proceedings or other steps have been taken and not discharged or dismissed (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue; and
- 12.1.12 in the three (3) years prior to the date of this Framework Agreement (or, if the Supplier has been in existence for less than three (3) years, in the whole of such shorter period) it has:
 - (a) conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts; and
 - (b) it has not performed any act or made any omission with respect to its financial accounting or reporting which could have an adverse effect on the Supplier's position as an on-going business concern or its ability to fulfil its obligations under this Framework Agreement or any Call-Off Agreement.
- 12.2 The Supplier shall promptly notify the Authority in writing:
 - 12.2.1 of any material detrimental change in the financial standing and/or any change in the credit rating of the Supplier;
 - 12.2.2 if the Supplier undergoes a change of control within the meaning of section 450 of the Corporation Tax Act 2010 (a "**Change of Control**"); and
 - 12.2.3 provided this does not contravene any Law, of any circumstances suggesting that a

Change of Control is planned or in contemplation.

- 12.3 For the avoidance of doubt, the fact that any provision within this Framework Agreement is expressed as a warranty shall not preclude any right of termination the Authority may have in respect of breach of that provision by the Supplier.

13. PREVENTION OF BRIBERY AND CORRUPTION AND TAX NON-COMPLIANCE

Bribery and Corruption

- 13.1 The Supplier shall not:

13.1.1 offer or give, or agree to offer or give, any gift or other consideration of any kind to any employee, agent, servant or representative of the Authority, which gift or consideration could act as an inducement or a reward for any act or failure to act in relation to this Framework Agreement or any other contract with any Relevant Person; or

13.1.2 engage in and shall procure that all Supplier Staff or any person acting on the Supplier's behalf shall not commit, in connection with this Framework Agreement, any Call-Off Agreement or any other contract with the Authority, a Prohibited Act.

- 13.2 The Supplier warrants and undertakes to the Authority that it has not:

13.2.1 in entering into this Framework Agreement and any Call-Off Agreement breached the undertakings in Clause 13.1;

13.2.2 paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body in connection with this Framework Agreement; or

13.2.3 entered into this Framework Agreement with knowledge, that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Authority in connection with this Framework Agreement or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Authority before execution of this Framework Agreement.

- 13.3 The Supplier shall:

13.3.1 in relation to this Framework Agreement and each Call-Off Agreement, act in accordance with the Ministry of Justice Guidance;

13.3.2 immediately notify the Authority if it suspects or becomes aware of any breach of this Clause 13; and

13.3.3 respond promptly to any of the Authority's enquiries regarding any breach, potential breach or suspected breach of this Clause 13 and the Supplier shall co-operate with any investigation and allow the Authority to audit the Supplier's books, records and any other relevant documentation in connection with the breach.

- 13.4 If the Supplier, the Supplier Staff or any person acting on the Supplier's behalf, in all cases whether or not acting with the Supplier's knowledge, breaches Clause 13.1 the Authority shall be entitled to terminate this Framework Agreement and/or the relevant Call-Off Agreement by serving on the Supplier notice in writing with effect from the date specified in that notice.

- 13.5 Without prejudice to its other rights and remedies under this Clause 13, the Authority shall be

entitled to recover the amount of value of any such gift, consideration or commission in full from the Supplier and the Supplier shall on demand indemnify the Authority in full from and against any other loss sustained by the Authority in consequence of any breach of this Clause 13.

Promoting Tax Compliance

13.6 If, at any point during the Term or during the term of any Call-Off Agreement, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

13.6.1 notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and

13.6.2 promptly provide to the Authority:

(a) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

(b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

14. SAFEGUARD AGAINST FRAUD

14.1 The Supplier shall take all reasonable steps, in accordance with Good Industry Practice, to prevent any Fraud by the Supplier and/or the Supplier Staff and/or any Temporary Worker.

14.2 The Supplier shall immediately notify the Authority in writing if it has reason to suspect that any Fraud has occurred, is occurring or is likely to occur save where complying with this provision would cause the Supplier and/or the Supplier Staff and/or any Temporary Worker to commit an offence under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.

14.3 If the Supplier and/or the Supplier Staff and/or any Temporary Worker commits Fraud, the Authority may:

14.3.1 terminate this Framework Agreement in accordance with Clause 27.2 (Termination) and recover from the Supplier the amount of any loss suffered by the Authority resulting from such termination, including the costs reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Term; or

14.3.2 recover in full from the Supplier, and the Supplier shall on demand indemnify in full and hold the Authority harmless from and against, any other loss sustained by the Authority in consequence of any breach of this Clause 14.

15. CALL-OFF AGREEMENT PERFORMANCE

15.1 In consideration of the payment of the Charges, the Supplier shall perform all its obligations under all Call-Off Agreements entered into with the Authority:

15.1.1 in accordance with the requirements of this Framework Agreement;

15.1.2 in accordance with the terms and conditions of the respective Call-Off Agreements;

15.1.3 in accordance with the Tender;

15.1.4 in compliance with all applicable Laws.

15.2 The Supplier shall provide the Temporary Worker Services in a timely manner and the Supplier shall meet the Authority's requirements in relation to commencing the supply of the Temporary Worker Services within the Call-Off Period specified in the Order.

15.3 The Supplier shall draw any conflict between any of the requirements of sub-Clauses 15.1.1 or 15.1.2 and those of sub-Clause 15.1.3 to the attention of the Authority and shall comply with the Authority's decision on the resolution of that conflict (to be exercised in the Authority's sole discretion).

16. **STATUTORY REQUIREMENTS AND STANDARDS**

16.1 The Supplier shall be responsible for obtaining and maintaining all licences, authorisations, consents or permits required in relation to the performance of its obligations under this Framework Agreement and any Call-Off Agreement.

16.2 On the request of the Authority Representative, the Supplier shall provide proof to the Authority's reasonable satisfaction that the processes used, or proposed to be used, conform to the Framework Agreement.

16.3 To the extent that the standard of work has not been set out in this Framework Agreement, the Supplier shall use the best applicable techniques and standards and perform this Framework Agreement with all reasonable care, skill and diligence, and in accordance with Good Industry Practice.

16.4 The Supplier warrants and represents that all Supplier Staff assigned to the performance of the Framework Services shall possess and exercise such qualifications, skill and experience as are necessary for the proper performance of the Framework Services.

16.5 The Supplier warrants and represents that all Temporary Workers assigned to the performance of the Temporary Worker Services shall possess and exercise such qualifications, authorisations, skill and experience as are necessary for the proper performance of the Temporary Worker Services.

16.6 To the extent the provision of the Services or part thereof constitute a regulated activity, the Supplier shall ensure it at all times obtains and maintains in force all licenses and consents required from a Regulatory Body in respect of those Services.

17. **NON-DISCRIMINATION**

17.1 The Supplier shall not, and shall procure that the Supplier Staff and Sub-Contractors do not, unlawfully discriminate either directly or indirectly within the meaning and scope of any Law, enactment, order or regulation relating to discrimination on grounds of race, gender, religion or religious belief, colour, ethnic or national origin, disability, sexual orientation, age or otherwise when performing their obligations under this Framework Agreement and any Call-Off Agreement.

17.2 The Supplier shall take all reasonable steps to secure the observance of Clause 17.1 by all the Supplier Staff and shall comply with any policy of the Authority on the Equalities Provisions, as reasonably directed by the Authority in writing.

17.3 The Supplier shall provide such information as the Authority may reasonably require for the purpose of assessing the Supplier's compliance with the Equalities Provisions.

17.4 The Supplier shall notify the Authority immediately in writing upon becoming aware of any investigation or legal proceedings brought against the Supplier or its sub-contractors in respect of any aspect of the subject matter of the Equalities Provisions.

- 17.5 In the event of any finding of unlawful discrimination being made against the Supplier or its sub-contractors in respect of any aspect of the subject matter of the Equalities Provisions during the period of this Call-Off Agreement, the Supplier shall inform the Authority of this finding forthwith and shall (but, in the event of an appeal, only after the final and unsuccessful outcome of the appellate process) take appropriate steps to the reasonable satisfaction of the Authority to prevent repetition of the unlawful discrimination.
- 17.6 In the event of repeated findings of unlawful discrimination against the Supplier during the period of a Call-Off Agreement (whether arising from the same or different acts or omissions, and regardless of any steps it has taken in accordance with Clause 17.5 above) the Authority shall be entitled to terminate a Call-Off Agreement with immediate effect.
- 17.7 If requested to do so by the Authority, the Supplier shall fully co-operate with the Authority at its own expense in connection with any investigation, legal proceedings, ombudsman inquiries or arbitration in which the Authority may become involved arising from any breach of any of the Authority's duties in respect of any aspect of the subject matter of the Equalities Provisions due to the alleged acts or omissions of the Supplier.
- 17.8 In performing its obligations under this Framework Agreement and any Call-Off Agreements, the Supplier shall treat all NPS Customers in the same manner, regardless of their size.
18. **AUDIT**
- 18.1 The Supplier shall keep and maintain until six (6) Years after the date of termination or expiry (whichever is the earlier) of this Framework Agreement (or such other longer period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Framework Agreement.
- 18.2 The Supplier shall keep the records and accounts referred to in Clause 18.1 (Audit) in accordance with Good Industry Practice.
- 18.3 The Supplier shall afford each of the Authority, the National Audit Office and/or auditor appointed by the Audit Commission ("**Auditors**") and their respective representatives access to the records and accounts referred to in Clause 18.1 (Audit) at the Supplier's premises and/or provide copies of such records and accounts, as may be required by the Authority or Auditors from time to time, in order that the Authority or Auditors may carry out an inspection including for the following purposes:
- 18.3.1 to verify the accuracy of Charges under any Call-Off Agreements (and proposed or actual variations to them in accordance with this Framework Agreement and the relevant Call-Off Agreement);
- 18.3.2 to identify or investigate actual or suspected Fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Authority shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
- 18.3.3 to obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General (of the National Audit Office);
- 18.3.4 to review the integrity, confidentiality and security of the Authority Data held or used by the Supplier;
- 18.3.5 to review the Supplier's compliance with the Data Protection Legislation in accordance with this Framework Agreement, any Call-Off Agreement and any other Laws;

- 18.3.6 to review the Supplier's compliance with its security obligations;
- 18.3.7 to review any books of accounts and the internal contract management accounts kept by the Supplier in connection with the provision of the Services;
- 18.3.8 to carry out the Authority's internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;
- 18.3.9 to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- 18.3.10 to verify the accuracy or completeness of any management information required to be provided by the Supplier under this Framework Agreement and any Call-Off Agreement;
- 18.3.11 to review any records relating to the Supplier's performance of the Services; and
- 18.3.12 to ensure that the Supplier is complying with its obligations under this Framework Agreement and any Call-Off Agreement.
- 18.4 Nothing in this Framework Agreement shall prevent or restrict the rights of either the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Supplier and/or any of its Sub-Contractors for the purposes of and pursuant to applicable Law.
- 18.5 The Supplier shall provide such records and accounts (together with copies of the Supplier's published accounts) on request during the Term and for a period of six (6) Years after expiry of the Term or termination, to the Authority or Auditors and/or its internal and external auditors.
- 18.6 The Authority shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of any Services, save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditors is outside of the control of the Authority.
- 18.7 The Authority shall give the Supplier reasonable written notice of its requirement to conduct an audit which in any event shall be conducted during normal working hours.
- 18.8 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Auditors with all reasonable co-operation and assistance in relation to each audit, including by providing:
 - 18.8.1 all information within the scope of the audit requested by the Auditors;
 - 18.8.2 reasonable access to any sites controlled by the Supplier and to equipment used in the provision of the Services;
 - 18.8.3 reasonable access to any electronic systems or information technology communications systems used by the Supplier in the provision of the Services or on which information relating to the provision of the Services, this Call-Off Agreement or this Framework Agreement is stored; and
 - 18.8.4 reasonable access to the Supplier Staff and Temporary Workers.
- 18.9 If an audit reveals:
 - 18.9.1 a Material Default; or

18.9.2 Fraud or suspected Fraud,

the Supplier shall reimburse the Authority its reasonable costs incurred in relation to the audit and the Authority be entitled to exercise its rights to terminate this Framework Agreement pursuant to Clause 27 (Termination).

- 18.10 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 18 (Audit), save as specified in Clause 18.9 (Audit).

19. **PROVISION OF MANAGEMENT INFORMATION**

- 19.1 The Supplier shall provide the Management Information to the Authority (and at no cost to the Authority).

- 19.2 The Supplier grants the Authority a non-exclusive, transferable, perpetual, irrevocable, royalty free licence to use and share with any Public Body and/or Relevant Person any information supplied under this Clause 19 (Provision of Management Information) for the purposes of the normal operational activities of the Authority and each Public Body, including administering this Framework Agreement and/or the Call-Off Agreements, monitoring public sector expenditure, identifying savings or potential savings and planning future procurement activity.

- 19.3 If the Authority shares any information supplied under this Clause 19 (Provision of Management Information) with any Public Body, the Authority shall inform such Public Body of the sensitive nature of that information and shall be requested not to disclose it to any person who is not a Public Body (unless required to do so by Law or save as permitted under any Call-Off Agreement).

20. **SATISFACTION MONITORING**

- 20.1 The Authority may from time to time undertake (or procure the undertaking of) a user satisfaction survey (a "**Satisfaction Survey**") the purpose of which shall include:

20.1.1 assessing the level of satisfaction among some or all NPS Customers with the Services (including the way in which the Services are provided, performed and delivered) and, in particular, with the quality, efficiency and effectiveness of the supply of the Services;

20.1.2 monitoring the compliance by the Supplier with this Framework Agreement and any Call-Off Agreements; and

20.1.3 such other assessment as it may deem appropriate for monitoring NPS Customers satisfaction.

- 20.2 The Authority shall be entitled, but not obliged, to use the results of any Satisfaction Survey to make decisions under or in relation to this Framework Agreement and any Call-Off Agreements.

21. **CONFIDENTIALITY**

- 21.1 Except to the extent set out in this Clause 21 (Confidentiality) or where disclosure is expressly permitted elsewhere in this Framework Agreement, each Party shall:

21.1.1 treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly; and

21.1.2 not disclose any Confidential Information belonging to the other Party to any other

person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of this Framework Agreement or any Call-Off Agreement or except where disclosure is otherwise expressly permitted by the provisions of this Framework Agreement, any Call-Off Agreement or is a requirement of Law.

- 21.2 The Supplier shall ensure that the Supplier Staff and all Temporary Workers are aware of, and shall ensure that the Supplier Staff comply with, the Supplier's confidentiality obligations under this Framework Agreement.
- 21.3 The Supplier shall not, and shall procure that the Supplier Staff and all Temporary Workers do not, use any of the Authority Confidential Information received otherwise than for the purposes permitted by this Framework Agreement.
- 21.4 Where the Supplier is required by the terms of insurances required by Law or under each individual Call-Off Agreement to notify the insurer of Confidential Information belonging to the Authority, it shall ensure that the insurer is aware of, and shall ensure that the insurer shall comply with, the Supplier's confidentiality obligations under this Framework Agreement.
- 21.5 The provisions of Clauses 21.1 to 21.3 shall not apply to any Confidential Information received by one Party from the other which:
- 21.5.1 is or becomes public knowledge (otherwise than by breach of this Clause 21 (Confidentiality));
 - 21.5.2 is provided to professional advisers for the purpose of obtaining professional advice;
 - 21.5.3 was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
 - 21.5.4 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
 - 21.5.5 is information independently developed without access to the Confidential Information; or
 - 21.5.6 must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under Clause 22 (Transparency) and/or the FOIA, or the Environmental Information Regulations pursuant to Clause 25 (Freedom of Information).
- 21.6 Nothing in this Framework Agreement shall prevent the Authority from disclosing the Supplier Confidential Information:
- 21.6.1 for the purpose of the examination and certification of the Authority's accounts;
 - 21.6.2 for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; or
 - 21.6.3 to any government department or Public Body,

and the Supplier hereby acknowledges that all government departments receiving such Supplier Confidential Information may further disclose the Supplier Confidential Information to other government departments or Public Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Public Body (unless disclosure is required by Law or is permitted under

any Call-Off Agreement).

- 21.7 The Supplier acknowledges and agrees that information relating to Orders placed by the Authority, including pricing information and the terms of any Call-Off Agreement may be shared with any other Public Bodies from time to time. The Authority shall use reasonable endeavours to notify the recipient of such information that its contents are confidential.
- 21.8 Nothing in Clauses 21.1 to 21.3 (Confidentiality) shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under this Framework Agreement or any Call-Off Agreements (but expressly excluding any Know-How already in the Supplier's or the Authority's possession before the Commencement Date) in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- 21.9 Clauses 21.1 to 21.3 (Confidentiality) shall operate without prejudice to and be read subject to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information.
- 21.10 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in performance of this Framework Agreement, the Supplier undertakes to maintain adequate security arrangements that meet the requirements of Good Industry Practice.
- 21.11 The Supplier shall immediately notify the Authority of any breach of security in relation to Authority Confidential Information obtained in the performance of this Framework Agreement and any Call-Off Agreements and shall keep a record of such breaches. The Supplier shall use its best endeavours to recover any Authority Confidential Information however it may have been recorded, which has been lost or corrupted due to any act or omission of the Supplier or the Supplier Staff or any Temporary Worker. This obligation is in addition to the Supplier's obligations under Clauses 21.1 to 21.3 (Confidentiality). The Supplier shall co-operate with the Authority in any investigation that the Authority considers necessary to undertake as a result of any breach of security in relation to Authority Confidential Information.
- 21.12 The Supplier shall, at its own expense, alter any security systems used in connection with the performance of this Framework Agreement or any Call-Off Agreement at any time during the Term or the term of the relevant Call-Off Agreement, at the request of the Authority if the Authority believes (acting reasonably) the Supplier has failed to comply with Clause 21.2 or 21.10 (Confidentiality).
- 21.13 No changes shall be made by the Supplier in the way they handle or mark any Government information under this Framework Agreement until those changes have been specifically agreed by the Authority by means of a variation in accordance with Clause 33 (Variations to this Framework Agreement).

22. TRANSPARENCY

- 22.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Framework Agreement is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of this Framework Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 22.2 Notwithstanding any other term of this Framework Agreement, the Supplier hereby gives its consent for the Authority to publish this Framework Agreement in its entirety (subject only to redaction of any information that the Authority determines is exempt from disclosure in accordance with the provisions of FOIA) including from time to time agreed changes to this Framework Agreement.

- 22.3 The Authority may consult with the Supplier to help with its decision regarding any exemptions under Clause 22.1 (Transparency) but the Authority shall have the final decision in its absolute discretion.
- 22.4 The Supplier shall assist and cooperate with the Authority to enable the Authority to publish this Framework Agreement.
- 22.5 The Supplier shall cooperate fully with the UK Government's transparency agenda as detailed in the ITT and updated from time to time.
23. **OFFICIAL SECRETS ACTS**
- The Supplier shall comply with and shall ensure that the Supplier Staff and Temporary Workers comply with, the provisions of:
- 23.1 the Official Secrets Acts 1911 to 1989; and
- 23.2 section 182 of the Finance Act 1989.
24. **DATA PROTECTION**
- 24.1 With respect to the Parties' rights and obligations under this Framework Agreement, the Parties agree that the Authority is the Data Controller and that the Supplier is the Data Processor in relation to the Authority Personal Data. The Supplier shall (and shall procure that Supplier Staff and Temporary Workers) comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with this Framework Agreement.
- 24.2 Notwithstanding the general obligation in Clause 24.1 (Data Protection), where the Supplier is Processing Authority Personal Data for the Authority the Supplier shall ensure that it has in place appropriate technical and organisational measures to ensure the security of the Authority Personal Data (and to guard against unauthorised or unlawful Processing of the Authority Personal Data and against accidental loss or destruction of, or damage to, the Authority Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA and shall:
- 24.2.1 Process the Authority Personal Data only in accordance with instructions from the Authority;
- 24.2.2 provide the Authority with such information as the Authority may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;
- 24.2.3 promptly notify the Authority of any breach of the security measures to be put in place pursuant to this Clause;
- 24.2.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Authority in breach of its obligations under the DPA; and
- 24.2.5 obtain prior written consent from the Authority in order to transfer the Authority Personal Data to any Sub-Contractors.
- 24.3 The provisions of this Clause 24.3 shall apply during the Term and indefinitely after the termination or expiry of this Framework Agreement.
- 24.4 The Supplier shall comply at all times with the Information Security Requirements in respect of all Authority Data;

- 24.5 The Supplier shall not cause or permit to be Processed, stored, accessed or otherwise transferred outside the European Economic Area any Authority Personal Data supplied to it by the Authority without Approval and, where the Authority consents to such Processing, storing, accessing or transfer outside the European Economic Area, shall comply with:
- 24.5.1 comply with the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the DPA by providing an adequate level of protection to any Authority Personal Data that is so Processed, stored, accessed or transferred;
 - 24.5.2 comply with any reasonable instructions notified to it by the Authority; and
 - 24.5.3 enter into the EU Model Clauses if requested by the Authority.
- 24.6 The Supplier shall indemnify and keep indemnified the Authority from and against any and all liabilities, losses, demands, damages, costs, claims, expenses (including without limitation legal expenses), fines, penalties and interest which the Authority may incur (directly or indirectly), including without limitation in relation to any third party claim and the Authority's expenses in defending and/or settling such third party claim, arising from any breach by the Supplier of any of its obligations under this Clause 24 (Data Protection).
25. **FREEDOM OF INFORMATION**
- 25.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the Authority to enable the Authority to comply with its Information disclosure obligations.
- 25.2 The Supplier shall and shall procure that its Sub-Contractors shall:
- 25.2.1 transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
 - 25.2.2 provide the Authority with a copy of all Information that is relevant to a Request for Information and in its control, possession or power, in the form that the Authority requests within five (5) Working Days (or such other period as the Authority may specify) of the Authority's request; and
 - 25.2.3 provide all necessary assistance reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 25.3 The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Framework Agreement or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 25.4 In no event shall the Supplier respond directly to a Request for Information without prior Approval.
- 25.5 The Supplier acknowledges that (notwithstanding the provisions of this Clause 25 (Freedom of Information)) the Authority may, acting in accordance with the Ministry of Justice Codes, be obliged under the FOIA or the Environmental Information Regulations to disclose information concerning the Supplier or the Services:
- 25.5.1 in certain circumstances without consulting the Supplier; or

25.5.2 following consultation with the Supplier and having taken the Supplier's views into account,

provided always that where this Clause 25.5 (Freedom of Information) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

26. PUBLICITY AND BRANDING

26.1 The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation upon the Authority, including any examination of this Framework Agreement by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.

26.2 The Supplier shall not make any press announcements or publicise this Framework Agreement or any part thereof or any Call-Off Agreement in any way without Approval.

26.3 The Supplier shall not have any right to use any of the Authority's names, logos or trade marks on any of its products or services without Approval.

26.4 The Supplier shall not do anything or cause anything to be done which may damage the reputation of the Authority or bring the Authority into disrepute.

27. TERMINATION

Termination for Bribery and Corruption

27.1 The Authority may terminate this Framework Agreement and/or the relevant Call-Off Agreement in accordance with Clause 13.4 (Prevention of Bribery and Corruption and Tax Non-Compliance).

Termination in relation to Fraud

27.2 The Authority may terminate this Framework Agreement by serving notice on the Supplier in writing with effect from the date specified in such notice under Clause 14.3.1 (Safeguard Against Fraud) has occurred.

Termination on Audit

27.3 The Authority may terminate this Framework Agreement by serving notice on the Supplier in writing with effect from the date specified in such notice in the circumstances set out in Clause 18.9 (Audit).

Termination on Breach of Obligations of Confidentiality

27.4 The Authority may terminate this Framework Agreement by serving notice on the Supplier in writing with effect from the date specified in such notice where the Supplier fails to comply with any of Clauses 21.1 to 21.3 (Confidentiality).

Termination in relation to Official Secrets Acts

27.5 The Authority may terminate this Framework Agreement by serving notice on the Supplier in writing with effect from the date specified in such notice where the Supplier is in breach of its obligations under Clause 23 (Official Secrets Acts).

Termination in relation Article 18(2) of the Public Contracts Directive 2015

27.6 The Authority may terminate this Framework Agreement by serving notice on the Supplier in

writing with effect from the date specified in such notice where the Supplier is in breach of its legal obligations in the fields of environmental, social and labour law.

Termination on Failure to Agree Variation

- 27.7 The Authority may terminate this Framework Agreement by serving notice on the Supplier in writing with effect from the date specified in such notice where the Parties fail to agree to a variation as referred to in Clause 33 (Variations to this Framework Agreement).

Termination on Material Default

- 27.8 The Authority may terminate this Framework Agreement by serving written notice on the Supplier with effect from the date specified in such notice where the Supplier commits a Material Default and if:

27.8.1 the Supplier has not remedied the Material Default to the satisfaction of the Authority within twenty (20) Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Material Default and requesting it to be remedied; or

27.8.2 the Material Default is not, in the reasonable opinion of the Authority, capable of remedy.

Termination for Financial Standing

- 27.9 The Authority may terminate this Framework Agreement by serving notice on the Supplier in writing with effect from the date specified in such notice:

27.9.1 where (in the reasonable opinion of the Authority) there is a material detrimental change in the financial standing and/or a change in the credit rating of the Supplier which:

(a) adversely impacts on the Supplier's ability to supply the Services under this Framework Agreement or any Call-Off Agreement; or

(b) could reasonably be expected to have an adverse impact on the Supplier's ability to supply the Services under this Framework Agreement or any Call-Off Agreement; or

27.9.2 if the Supplier demerges into two or more firms, merges with another firm, incorporates or otherwise changes its legal form and the new entity has or could reasonably be expected to have a materially less good financial standing or weaker credit rating than the Supplier.

Termination on Insolvency

- 27.10 The Authority may terminate this Framework Agreement with immediate effect by notice in writing where in respect of the Supplier:

27.10.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;

27.10.2 a shareholders', members' or partners' meeting is convened for the purpose of considering a resolution that it be wound up or dissolved or a resolution for its winding-up or dissolution is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);

- 27.10.3 a petition is presented for its winding up (which is not dismissed within five (5) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
- 27.10.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
- 27.10.5 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within ten (10) Working Days;
- 27.10.6 an application or an administration order is made either for the appointment of an administrator or for an administration order and an administrator is appointed, or notice of intention to appoint an administrator is given;
- 27.10.7 it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
- 27.10.8 being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force in relation to it pursuant to Schedule A1 of the Insolvency Act 1986;
- 27.10.9 being an individual, or where the Supplier is a firm, any partner or partners in that firm who together are able to exercise direct or indirect control of the firm, shall at any time become bankrupt or shall have a receiving order or administration order made against him or them or shall make any composition or arrangement with or for the benefit of his or their creditors, or shall make any conveyance or assignment for the benefit of his or their creditors, or shall purport to do any of these things, or appears or is unable to pay or to have no reasonable prospect of being able to pay a debt within the meaning of section 268 of the Insolvency Act 1986, or he or they shall become apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985 as amended by the Bankruptcy (Scotland) Act 1993, or any application shall be made under any bankruptcy or insolvency act for the time being in force for sequestration of his or their estate(s), or a trust deed shall be granted by him or them on behalf of his or their creditors; or
- 27.10.10 any event analogous to those listed in Clauses 27.10.1 to Clause 27.10.9 (Termination) (inclusive) occurs under the law of any other jurisdiction.

Termination on Change of Control of Change to Consortium

- 27.11 The Authority may terminate this Framework Agreement by giving notice in writing to the Supplier with immediate effect within six (6) Months of:
 - 27.11.1 being notified in writing that a Change of Control has occurred;
 - 27.11.2 where no notification has been made, the date that the Authority becomes aware of the Change of Control; or
 - 27.11.3 if the Supplier is more than one entity acting as a consortium, if there is any change to the consortium members or their responsibilities in respect of this Framework Agreement or any Call-Off Agreement (as may be set out in the Response),

if it believes, acting reasonably, that such change is likely to have an adverse effect on the provision of the Services but, in the case of a Change of Control, it shall not be permitted to terminate this Framework Agreement where Approval of the Change of Control was granted

prior to the Change of Control.

Termination by the Authority on Notice

- 27.12 The Authority shall have the right to terminate this Framework Agreement any time after the Commencement Date by giving at least three (3) Months' written notice to the Supplier.
- 27.13 The Authority shall have the right to terminate a Call-Off Agreement at any time by giving written notice to the Supplier with immediate effect.

Termination for Serious Misconduct

- 27.14 The Authority may terminate this Framework Agreement by serving notice on the Supplier in writing with effect from the date specified in such notice where the Supplier is a partnership or a limited liability partnership or an individual, or where the provider is a firm, any partner in that firm:
- 27.14.1 is convicted of a criminal offence relating to the conduct of its business or profession;
 - 27.14.2 commits an act of Grave Misconduct;
 - 27.14.3 fails to comply with any obligations relating to the payment of any taxes or social security contributions;
 - 27.14.4 makes any serious misrepresentations in the tendering process for any project or matter in which the public sector has or had a significant participation; or
 - 27.14.5 fails to obtain any necessary licences or obtain or maintain membership of any relevant body.
- 27.15 The Authority may also terminate a Call-Off Agreement by serving notice on the Supplier in writing with effect from the date specified in such notice where a Temporary Worker:
- 27.15.1 is convicted of a criminal offence relating to the conduct of its business or profession;
 - 27.15.2 commits an act of Grave Misconduct;
 - 27.15.3 fails to comply with any obligations relating to the payment of any taxes or social security contributions;
 - 27.15.4 makes any serious misrepresentations in the tendering process for any project or matter in which the public sector has or had a significant participation; or
 - 27.15.5 fails to obtain any necessary licences or obtain or maintain membership of any relevant body.

Termination for Procurement Reasons

- 27.16 The Authority shall have the right to terminate this Framework Agreement at any time by giving notice in writing to the Supplier with immediate effect where:
- 27.16.1 this Framework Agreement has been subject to substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) of Regulations;
 - 27.16.2 the Supplier, at the time this Framework Agreement was awarded, was in one of

the situations referred to in regulation 57(1) or 57(3) of the Regulations, and should therefore have been excluded from the procurement procedure;

27.16.3 the Supplier, at the time this Framework Agreement was awarded, was in one of the situations referred to in regulation 57(4) or 57(8) of the Regulations, and the Authority would have excluded the Supplier from the procurement procedure had it been aware of the situation prior to the award of this Framework Agreement; or

27.16.4 this Framework Agreement should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaty on the European Union, the Treaty on the Functioning of the European Union and Directive 2014/24 that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union.

Termination on Dissolution of Partnership

27.17 The Authority may terminate this Framework Agreement with immediate effect by notice in writing on dissolution of the Supplier where the Supplier is a partnership or a limited liability partnership.

Termination for Occasion of Tax Non-Compliance

27.18 The Authority may terminate this Framework Agreement with immediate effect by notice in writing:

27.18.1 if the Supplier is in breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance pursuant to Clause 13.6.1 (Prevention of Bribery and Corruption and Tax Non-Compliance); or.

27.18.2 if the Supplier fails to provide details of the steps and the mitigating factors pursuant to Clause 13.6.2 (Prevention of Bribery and Corruption and Tax Non-Compliance) which in the Authority's reasonable opinion are acceptable.

Partial Termination

27.19 Where the Authority is entitled to terminate this Framework Agreement pursuant to any of the provisions set out in Clauses 27.1 to 27.18 (Termination) (inclusive) the Authority may alternatively terminate this Framework Agreement in part only, provided always that the parts of this Framework Agreement not terminated can operate effectively to deliver the intended purpose of this Framework Agreement.

28. CONSEQUENCES OF TERMINATION AND EXPIRY

28.1 Notwithstanding the service of a notice to terminate this Framework Agreement, the Supplier shall continue to fulfil its obligations under this Framework Agreement until the date of expiry or termination of this Framework Agreement or such other date as required under this Clause 28 (Consequences of Termination and Expiry).

28.2 Termination or expiry of this Framework Agreement shall not cause any Call-Off Agreements to terminate automatically. For the avoidance of doubt, all Call-Off Agreements shall remain in force unless and until they are terminated or expire in accordance with the terms of the Call-Off Agreements.

28.3 Within ten (10) Working Days of the date of termination or expiry of this Framework Agreement, the Supplier shall return to the Authority any Authority Confidential Information in the Supplier's possession, power or control, either in its then current format or in a format nominated by the Authority, and any other information and all copies thereof owned by the

Authority. Save where the Framework Agreement has been terminated due to misuse by the Supplier of such data, a copy may be retained for legal or regulatory purposes only for a maximum of twelve (12) Months.

28.4 Within ten (10) Working Days of the date of termination or expiry of this Framework Agreement, the Supplier shall return to the Authority all Property.

28.5 Upon expiry or termination of all or any part of this Framework Agreement, the Supplier shall provide all reasonable assistance and information to the Authority (and to any Replacement Supplier appointed by the Authority) if requested, to the extent necessary to effect an orderly assumption of the Services by the Authority or any contract that is to replace this Framework Agreement.

28.6 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement prior to termination or expiry.

28.7 The provisions of Clauses 3 (Scope of Framework Agreement), 10 (Ordering Procedures), 12 (Warranties and Undertakings), 13 (Prevention of Bribery and Corruption and Tax Non-Compliance), 14 (Safeguard Against Fraud), 15 (Call-Off Agreement Performance), 21 (Confidentiality), 23 (Official Secrets Acts), 24 (Data Protection), 25 (Freedom of Information), 28 (Consequences of Termination and Expiry), 30 (Liability), 31 (Insurance), 34 (Rights of Third Parties), 37 (Waiver and Cumulative Remedies) and 52 (Law and Jurisdiction), Framework Schedules: 1 (Services), 2 (Charging Structure), 3 (Ordering Procedure) and 6 (Framework Management) and, without limitation to the foregoing, any other provision of this Framework Agreement which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the termination or expiry of this Framework Agreement. This Clause is without prejudice to any provisions of this Framework Agreement incorporated in any Call-Off Agreement which shall continue in full force and effect for the duration of that Call-Off Agreement.

29. **TUPE**

29.1 The Authority and the Supplier agree that at the commencement of the provision of the Services part A of Schedule 11 (TUPE) shall have effect.

29.2 Part B of Schedule 11 (TUPE) shall apply on the expiry or the termination of the Services or any part of the Services.

30. **LIABILITY**

30.1 Neither Party excludes or limits its liability for:

30.1.1 death or personal injury; or

30.1.2 fraud or fraudulent misrepresentation by it or its employees.

30.2 Subject to the limits set out in Clause 30.4 (Liability), the Supplier shall be liable for the following types of loss, damage, cost or expense flowing from an act or default of the Supplier which shall be regarded as direct and shall (without in any way, limiting other categories of loss, damage, cost or expense which may be recoverable by the Authority) be recoverable by the Authority:

30.2.1 the additional operational and/or administrative costs and expenses arising from any Material Default;

30.2.2 the cost of procuring, implementing and operating any alternative or replacement services to the Services; and

- 30.2.3 any regulatory losses, fines, expenses or other losses arising from a breach by the Supplier of any Laws.
- 30.3 In no event shall either Party be liable to the other for any:
- 30.3.1 loss of profits;
- 30.3.2 loss of business;
- 30.3.3 loss of revenue;
- 30.3.4 loss of or damage to goodwill;
- 30.3.5 loss of savings (whether anticipated or otherwise); and/or
- 30.3.6 any indirect, special or consequential loss or damage.
- 30.4 Subject to Clauses 30.1 (Liability) and 30.3 (Liability), the total aggregate liability of the Supplier under and in connection with this Framework Agreement (but excluding the Call-Off Agreements where any limits on liability shall be set out in those individual Call-Off Agreements) whether those liabilities are expressed as an indemnity or otherwise (whether in contract, tort (including negligence), breach of statutory duty or howsoever arising) shall be limited to five million pounds (£5,000,000). For the avoidance of doubt, the Parties acknowledge and agree that this Clause 30 (Liability) shall not limit the Supplier's liability under any Call-Off Agreement which liability shall be governed by the terms of the relevant Call-Off Agreement.
- 30.5 Subject to Clauses 30.1 and 30.3 (Liability), the Authority's total aggregate liability under and in connection with this Framework Agreement (but excluding the Call-Off Agreements where any limits on liability shall be set out in those individual Call-Off Agreements) whether those liabilities are expressed as an indemnity or otherwise (whether in contract, tort (including negligence), breach of statutory duty or howsoever arising) shall be limited to the lesser of one hundred thousand pounds (£100,000) or 150% of the charged payable by the Authority to the Supplier under the relevant Call-Off Agreement. For the avoidance of doubt, the Parties acknowledge and agree that this Clause 30 (Liability) shall not limit the Authority's liability under any Call-Off Agreement to which it is a party, which liability shall be governed by the terms of the relevant Call-Off Agreement.
31. **INSURANCE**
- 31.1 The Supplier shall effect and maintain insurances as required by Law or the Authority under each individual Call-Off Agreement.
- 31.2 The insurances required by the Authority under individual Call-Off Agreements shall be maintained with a reputable insurance company, on terms that are no less favourable to those generally available to a prudent supplier in respect of risks insured in the international insurance market.
- 31.3 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities arising under this Framework Agreement or any Call-Off Agreement.
- 31.4 The Supplier shall produce to the Authority, on request, copies of all insurance policies required by the Authority under any Call-Off Agreements or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 31.5 The Supplier shall use its reasonable endeavours to ensure that it shall not by its acts or omissions cause any policy of insurance to be invalidated or voided.

32. TRANSFER AND SUB-CONTRACTING

- 32.1 This Framework Agreement is personal to the Supplier and the Supplier shall not assign, novate or otherwise dispose of or create any trust in relation to any or all rights and obligations under this Framework Agreement or any part thereof.
- 32.2 This Supplier shall not Sub-Contract this Framework Agreement or any part thereof without Approval.
- 32.3 The Supplier shall not substitute or remove a Sub-Contractor or appoint an additional sub-contractor without the prior written consent of the Authority, such consent not be unreasonably withheld or delayed. Such consent shall not constitute approval or endorsement of such substitute or additional sub-contractor.
- 32.4 Notwithstanding any permitted Sub-Contract pursuant to this Clause 32 (Transfer and Sub-Contracting), the Supplier at all times shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own. An obligation on the Supplier to do, or refrain from doing, any act or thing shall include an obligation upon the Supplier to procure that the Supplier Staff and Temporary Workers also do, or refrain from doing, such act or thing.
- 32.5 Where the Authority considers whether there are grounds for the exclusion of a Sub-Contractor under Regulation 57 of the Regulations, then:
- 32.5.1 if the Authority finds there are compulsory grounds for exclusion, the Supplier shall replace or shall not appoint a Sub-Contractor;
- 32.5.2 if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Supplier to replace or not to appoint the Sub-Contractor and the Supplier shall comply with such a requirement.
- 32.6 The Authority shall be entitled to:
- 32.6.1 assign, novate or otherwise dispose of its rights and obligations under this Framework Agreement or any part thereof to any other Public Body; or
- 32.6.2 novate this Framework Agreement to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Authority,
- provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under this Framework Agreement.
- 32.7 The Supplier shall enter into such agreement and/or deed as the Authority shall reasonably require so as to give effect to any assignment, novation or disposal made pursuant to Clause 32.5.
- 32.8 The Supplier shall pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days of verifying that the invoice is valid and undisputed.
- 32.9 The Supplier shall ensure that all Sub-contracts contain provisions:
- 32.9.1 requiring the Supplier or other party receiving goods or services under the contract to consider and verify invoices under the contract in a timely fashion; and
- 32.9.2 that if the Supplier or other party fails to consider and verify an invoice in accordance with Clause 32.9.1 above, the invoice shall be regarded as valid and undisputed for the purposes of Clause 32.9.3 below; and

- 32.9.3 requiring the Supplier or other party to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding 30 days of verifying that the invoice is valid and undisputed; and
- 32.9.4 giving the Authority a right to publish the Supplier's compliance with its obligation to pay undisputed invoices within the specified payment period; and
- 32.9.5 requiring the Sub-Contractor to include a clause to the same effect as this clause 32.9 in any contracts it enters into wholly or substantively for the purpose of performing or contributing to the performance of the whole or any part of the Services.

33. **VARIATIONS TO THIS FRAMEWORK AGREEMENT**

Variation in General

- 33.1 Subject to Clause 33.2 (Variation in General) and Framework Schedule 2 (Charging Structure), this Framework Agreement may not be varied except where:
 - 33.1.1 the Authority notifies the Supplier in writing that it wishes to vary this Framework Agreement and provides the Supplier with full written details of any such proposed change; and
 - 33.1.2 the Authority Representative and the Supplier Representative, acting reasonably, agree in writing to the variation and a written variation agreement is signed by the Authority Representative and the Supplier Representative; and
 - 33.1.3 any proposed variation complies with the requirements of regulation 72 of the Regulations.
- 33.2 If, by the date thirty (30) Working Days after notification was given under Clause 33.1.1, no agreement is reached by the Parties acting reasonably in relation to any variation requested, the Authority may, by giving written notice to the Supplier, either:
 - 33.2.1 agree that the Parties shall continue to perform their obligations under this Framework Agreement without the variation; or
 - 33.2.2 terminate this Framework Agreement with immediate effect.
- 33.3 The Supplier shall not be entitled to refuse any request to vary this Framework Agreement where such variation is required in order to reflect a Change in Law and such variation shall be subject to Clauses 33.7 to 33.9 (Legislative Change) (inclusive).
- 33.4 The Authority shall be entitled to vary the minimum and maximum of the Temporary Worker Rate by giving at least one (1) Month's written notice to the Supplier of such variation.
- 33.5 Subject to clause 2.3, the Authority shall be entitled to extend the duration of any Call-off Agreement by issuing a revised Order and Purchase Order to the Supplier where such extension is required to maintain continuity of probation support.

Legislative Change

- 33.6 The Supplier shall neither be relieved of its obligations under this Framework Agreement or any Call-Off Agreement nor be entitled to increase the Framework Prices and/or the Charges as the result of:
 - 33.6.1 a General Change in Law; or

- 33.6.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is known at the Commencement Date or, in the case of a Call-Off Agreement, at the commencement of that Call-Off Agreement.
- 33.7 If a Specific Change in Law occurs or will occur during the Term (other than those referred to in Clause 33.6.2 (Legislative Change) or the term of any Call-Off Agreement, the Supplier shall notify the Authority of the likely effects of that change, including whether any change is required to the Framework Services (or Temporary Worker Services, as appropriate), the Framework Prices, this Framework Agreement the Charges or the relevant Call-Off Agreement (as applicable).
- 33.8 As soon as practicable after any notification in accordance with Clause 33.7 (Legislative Change), the Parties shall in respect of this Framework Agreement or in respect of the relevant Call-Off Agreement discuss and agree the matters referred to in that Clause and any ways in which the Supplier can mitigate the effect of the Specific Change of Law, including:
- 33.8.1 providing evidence that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors;
- 33.8.2 demonstrating that a foreseeable Specific Change in Law had been taken into account by the Supplier before it occurred;
- 33.8.3 giving evidence as to how the Specific Change in Law has affected the rate card set out in Framework Schedule 2 (Charging Structure) or any other Charges.
- 33.9 Any adjustment to any provision of the Framework Agreement including the Framework Schedules which is required due to a Specific Change in Law shall be implemented by a written variation agreement signed by the Authority Representative and the Supplier's Representative. This Clause 33.9 (Legislative Change) shall not operate to alter any Charges paid or payable by the Authority pursuant to any Call-Off Agreements in existence prior to the date of the adjustment in the Framework Prices.
- 33.10 Any adjustment to the Charges or variation to any other provision of the relevant Call-Off Agreement which is required due to a Specific Change in Law shall be implemented by a written variation agreement signed by the duly authorised representatives of the parties to relevant Call-Off Agreement in accordance with the Call-Off Terms.
34. **RIGHTS OF THIRD PARTIES**
- 34.1 A person who is not a Party to this Framework Agreement (a "**Third Party**") has no right to enforce any term of this Framework Agreement under the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 34.2 No consent of any Third Party is necessary for any rescission, variation (including any release or compromise in whole or in part of liability) or termination of this Framework Agreement or any one or more Clauses of it.
35. **BUSINESS CONTINUITY**
- The Supplier shall have robust contingency plans in place to ensure that the Services to the Authority are maintained in the event of disruption (including, but not limited to, disruption to information technology systems) to the Supplier's operations, and those of Sub-Contractors to the Supplier, however caused. Such contingency plans shall be available on reasonable request for the Authority to inspect and to practically test at any reasonable time, and shall be subject to regular updating and revision throughout the Term and duration of any Call-Off Agreement.

36. SEVERABILITY

- 36.1 If any provision of this Framework Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force without affecting the remaining provisions of this Framework Agreement.
- 36.2 If any provision of this Framework Agreement that is fundamental to the accomplishment of the purpose of this Framework Agreement is held to any extent to be invalid, the Authority and the Supplier shall immediately commence good faith negotiations to remedy such invalidity.

37. WAIVER AND CUMULATIVE REMEDIES

- 37.1 The rights and remedies provided by this Framework Agreement may be waived only in writing by the Authority Representative or the Supplier Representative in a manner that expressly states that a waiver is intended, and such waiver shall only be operative with regard to the specific circumstances referred to.
- 37.2 Unless a right or remedy of the Authority is expressed to be an exclusive right or remedy, the exercise of it by the Authority is without prejudice to the Authority's other rights and remedies. Any failure to exercise or any delay in exercising a right or remedy by either Party shall not constitute a waiver of that right or remedy or of any other rights or remedies.
- 37.3 The rights and remedies provided by this Framework Agreement are cumulative and, unless otherwise provided in this Framework Agreement, are not exclusive of any right or remedies provided at Law or in equity or otherwise under this Framework Agreement.

38. RELATIONSHIP OF THE PARTIES

Nothing in this Framework Agreement is intended to create a partnership, or legal relationship of any kind that would impose liability upon one Party for the act or failure to act of the other Party, or to authorise either Party to act as agent for the other Party. Neither Party shall have authority to make representations, act in the name of, or on behalf of, or otherwise to bind the other Party.

39. FURTHER ASSURANCES

Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of this Framework Agreement.

40. ENTIRE AGREEMENT

- 40.1 This Framework Agreement constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.
- 40.2 Each of the Parties acknowledges and agrees that in entering into this Framework Agreement it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Framework Agreement.
- 40.3 Nothing in this Clause 40 (Entire Agreement) shall operate to exclude liability for Fraud or fraudulent misrepresentation.

41. COUNTERPARTS

This Framework Agreement may be executed in counterparts, each of which when executed

and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

42. NOTICES

42.1 Any notices given under or in relation to this Framework Agreement or any Call-Off Agreement shall be in writing by letter, (signed by or on behalf of the Party giving it) sent by hand, post, or recorded signed for delivery service, by facsimile transmission or by electronic mail (confirmed by letter) to the address or facsimile number and for the attention of the relevant Party set out in Clause 42.4 (Notices) or to such other address or facsimile number as that Party may have stipulated in accordance with Clause 42.5 (Notices).

42.2 A notice shall be deemed to have been received:

42.2.1 if delivered personally, at the time of delivery;

42.2.2 in the case of pre-paid first class post, special or other recorded delivery two (2) Working Days from the date of posting; and

42.2.3 in the case of electronic communication, two (2) Working Days after posting of a confirmation letter.

42.3 In proving service, it shall be sufficient to prove that personal delivery was made, or (including for the purposes of electronic mail confirmation letter) that the envelope containing the notice was addressed to the relevant Party set out in Clause 42.4 (Notices) (or as otherwise notified by that Party) and delivered either to that address or into the custody of the postal authorities as prepaid first class post, recorded signed-for delivery or pre-paid airmail letter and in the case of facsimile, that a transmission report generated from a facsimile machine evidences that the facsimile was transmitted to the relevant facsimile number.

42.4 For the purposes of Clause 42.1 (Notices), the postal address, facsimile number and email address of each Party shall be:

42.4.1 for the Authority:

Ministry of Justice
102 Petty France
London
SW1H 9AJ

For the attention of: Carmel Scarlett

Tel: 020 3334 5345

Email: mojprocurementcontingentlabourandrecruitment@justice.gsi.gov.uk

42.4.2 for the Supplier:

Red Snapper Recruitment Limited

Octavia House, 50 Banner Street

London, EC1Y 8ST

For the attention of: REDACTED

Tel: REDACTED

Fax: REDACTED

Email: REDACTED

42.5 Either Party may change its address for service by serving a notice in accordance with this Clause 42 (Notices).

42.6 For the avoidance of doubt, any notice given under this Framework Agreement shall not be validly served if sent by electronic mail (email) and not confirmed by a letter.

43. COMPLAINTS HANDLING AND RESOLUTION

43.1 The Supplier shall notify the Authority of any Complaints made by the NPS Customers, which are not resolved by operation of the Supplier's usual complaints handling procedure within five (5) Working Days of becoming aware of that Complaint and such notice shall contain full details of the Supplier's plans to resolve such Complaint.

43.2 Without prejudice to any rights and remedies that a complainant may have at Law, including under this Framework Agreement, and without prejudice to any obligation of the Supplier to take remedial action under the provisions of this Framework Agreement or a Call-Off Agreement, the Supplier shall use its best endeavours to resolve the Complaint within ten (10) Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

43.3 Within two (2) Working Days of a request by the Authority, the Supplier shall provide full details of a Complaint to the Authority, including details of steps taken to achieve its resolution.

44. FRAMEWORK AGREEMENT MANAGEMENT

The Parties agree that this Framework Agreement shall be managed in accordance with Framework Schedule 6 (Framework Management).

45. AWR – GENERAL OBLIGATIONS

45.1 The Parties acknowledge that the AWR apply to the Temporary Workers engaged by the Authority. The Parties agree that the Temporary Workers will qualify for equal treatment under the AWR including Day 1 Rights and further rights upon their completion of the Qualifying Period. Both Parties agree to comply with their respective obligations under the AWR.

45.2 Where either Party receives a complaint or request for information or claim relating to the AWR, it shall inform the other Party immediately and both Parties undertake to work together to respond to the Temporary Worker and resolve any complaints and/or requests for information.

45.3 Each Party shall comply with the other Party's reasonable requests for information and any other reasonable requirements to enable the other Party to comply with the AWR.

45.4 Neither Party shall act in such a way that would give rise to a claim under the Regulation 9 (anti-avoidance regulation) of the AWR or any other AWR provision.

46. AWR - AUTHORITY'S OBLIGATIONS

- 46.1 The Authority shall from the commencement of each Call-Off Agreement comply with the Day 1 Rights including but not limited to: canteen or other similar facilities, child-care facilities, staff rooms, transport services and car parking; and
- 46.2 to giving the Temporary Workers access to information on job vacancies with the Authority.
- 46.3 The Authority shall upon completion of the Temporary Worker of the Qualifying Period during an Assignment comply with the Qualifying Period Rights including but not limited to ensuring the Temporary Worker is afforded: equal treatment to the Comparator in respect of pay, the duration of working time, night work, breaks and rest periods and annual leave.
- 46.4 The Authority shall within 7 days of any request from the Supplier provide the Supplier with accurate and comprehensive Comparator Information (and updates thereto).
- 46.5 The Authority shall keep the Supplier updated of any changes to the Comparator Information including, but not limited to any changes to pay scales which impact the Comparator Information.

47. AWR - SUPPLIER OBLIGATIONS

- 47.1 Upon receipt of any information from the Authority relating to the Day 1 Rights and/or the Authority's job vacancies, the Supplier shall provide this information to any Temporary Worker on a Call-Off Agreement when such information is received.
- 47.2 Prior to the commencement of each Assignment and during each Assignment (as appropriate) and at any time upon the Authority's request in writing, the Supplier shall:
- 47.2.1 inform the Authority of any calendar weeks between 1 October 2011 and prior to the date of commencement of the relevant Assignment which the Temporary Worker believes count or may count towards the Qualifying Period; and
- 47.2.2 provide the Authority with all the details of such work, including (without limitation) details of where, when and the period(s) during which such work was undertaken and any other details requested by the Authority.
- 47.3 The Supplier shall permit the Temporary Worker to raise concerns to the Supplier if s/he considers that s/he has not or may not have received equal treatment under the AWR. The Supplier shall allow the Temporary Worker to raise this in writing with the Supplier setting out as fully as possible the basis of his/her concerns. The Supplier shall forward any such concerns to the Authority within 7 days of receipt.

48. TEMPORARY WORKER'S ANNUAL LEAVE

- 48.1 Under the Agency Workers Regulations, on completion of the Qualifying Period the Temporary Worker may be entitled to paid and/or unpaid annual leave in addition to the Temporary Worker's entitlement to paid annual leave under the Working Time Regulations.
- 48.2 The Supplier shall comply with all annual leave provisions for Temporary Workers under the AWR and the Working Time Regulations.

49. TEMPORARY WORKER'S REMUNERATION

- 49.1 The Supplier shall pay to the Temporary Worker the rate as set out in the Order Form (the "Rate") unless and until the Temporary Worker completes the Qualifying Period.

49.2 Once the Temporary Worker has completed the Qualifying Period during the relevant Assignment, the Supplier shall pay to the Temporary Worker the greater of

49.2.1 the Rate; or:

49.2.2 the Comparator Rate,

and shall where necessary make additional payments to the Temporary Worker to comply with the AWR.

50. **FORCE MAJEURE**

50.1 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under a Call-Off Agreement (other than a payment of money) to the extent that such delay or failure is a result of Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the relevant Call-Off Agreement for the duration of such Force Majeure. However, if such Force Majeure prevents either Party from performing its material obligations under a Call-Off Agreement for a period in excess of 90 days, either Party may terminate the relevant Call-Off Agreement with immediate effect by notice in writing.

50.2 Any failure or delay by the Supplier in performing its obligations under a Call-Off Agreement which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Supplier.

50.3 If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any failure or delay on its part as described in Clause 50.1 it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period for which it is estimated that such failure or delay shall continue.

51. **DISPUTE RESOLUTION**

51.1 The Parties shall attempt in good faith to negotiate a settlement of any dispute between them arising out of or in connection with this Framework Agreement or a Call-Off Agreement within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the Authority Representative and the Supplier Representative.

51.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

51.3 The obligations of the Parties under this Framework Agreement and any Call-Off Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation or arbitration pursuant to this Clause 51 (Dispute Resolution) and the Supplier and Supplier Staff and Temporary Workers shall comply fully with the requirements of this Framework Agreement and any Call-Off Agreement at all times.

51.4 If the dispute cannot be resolved by the Parties pursuant to Clause 51.1 (Dispute Resolution), the Parties shall refer it to mediation pursuant to the procedure set out in Clause 51.5 (Dispute Resolution) unless the Authority considers that the dispute is not suitable for resolution by mediation.

51.5 If a dispute is referred to mediation the Parties shall comply with the following provisions:

51.5.1 a neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within ten (10)

Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either Party that the Mediator is unable or unwilling to act, apply to the CEDR to appoint a Mediator;

- 51.5.2 the Parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure;
- 51.5.3 unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- 51.5.4 if the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties with effect from its signature by their duly authorised representatives;
- 51.5.5 if the Parties fail to reach an agreement on the resolution of the dispute, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to this Framework Agreement or any Call-off Agreement without the prior written consent of both Parties; and
- 51.5.6 if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to arbitration pursuant to Clause 51.6 (Dispute Resolution).
- 51.6 If a dispute cannot be resolved by the Parties pursuant to Clause 51.5 (Dispute Resolution) the Parties shall refer it to arbitration pursuant to the procedure set out in Clause 51.7 (Dispute Resolution) unless the Authority considers that it is not suitable for resolution by arbitration.
- 51.7 If a dispute is referred to arbitration the Parties shall comply with the following provisions:
 - 51.7.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996 and the LCIA procedural rules shall be applied and are deemed to be incorporated into this Framework Agreement (save that in the event of any conflict between those rules and this Framework Agreement, this Framework Agreement shall prevail);
 - 51.7.2 the decision of the arbitrator shall be binding on the Parties (in the absence of any material failure by the arbitrator to comply with the LCIA procedural rules);
 - 51.7.3 the tribunal shall consist of a sole arbitrator to be agreed by the Parties and in the event that the Parties fail to agree the appointment of the arbitrator within ten (10) Working Days or, if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA; and
 - 51.7.4 the arbitration proceedings shall take place in London.

52. LAW AND JURISDICTION

This Framework Agreement and/or any non-contractual obligations or matters arising out of or in connection with it and each Call-Off Agreement shall be governed by and construed in accordance with the Laws of England and Wales and, without prejudice to the dispute

Procurement of employment businesses to supply and manage the supply of temporary probation workers

Commercial and Contract Management (CCM) Directorate

resolution procedure set out in Clause 51 (Dispute Resolution), each Party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

BY SIGNING AND RETURNING THIS FRAMEWORK AGREEMENT THE SUPPLIER AGREES to comply with all the terms of this legally binding Framework Agreement. The Parties hereby acknowledge and agree that they have read this Framework Agreement and its Schedules and by signing below agree to be bound by the terms of this Framework Agreement.

IN WITNESS of which this Framework Agreement has been duly executed by the Parties.

Signed duly authorised for and on behalf of **the Supplier**

Signature: REDACTED

Name:

Position:

Date:

Signed for and on behalf of **The Secretary of State for Justice**

Signature: REDACTED

Name:

Position:

Date:

FRAMEWORK SCHEDULE 1: SERVICES

INTRODUCTION

SERVICES

Part A - Framework Services

This Framework Schedule 1 Part A specifies the Services that the Supplier shall make available to the Authority throughout the duration of the Framework Agreement:

The National Probation Service (NPS) has a requirement for temporary workers to be provided to cover periods of absence and to provide cover where a vacancy exists. Additionally, there is a specific requirement for temporary workers to be provided for pre-sentence report writing as detailed below.

The requirement is for the following types of workers, to be charged at an hourly rate:

- Senior Probation Officers
- Probation Officers
- Probation Services Officers

Detailed specifications for each type of worker are set out in Part B of this Schedule.

Additionally, Probation Officers and Probation Services Officers may be required to write Pre-Sentence Reports. Report writing will be charged at a fixed rate per report. Report writing can be undertaken as additional work by Temporary Workers assigned to a case management role, however this must not impact on their primary assignment.

The Supplier must be able to supply Temporary Workers to any Authority site across all divisions (within the Lot that they have been awarded) within England and Wales (including Approved Premises) and also, where required, to prison establishments. Maps of these sites can be accessed by following the links below.

<https://www.gov.uk/government/publications/national-probation-service-individual-division-maps>

Additionally, Court building addresses can be found at the below link:

<https://courtribunalfinder.service.gov.uk/courts/>

Service Levels

The Supplier must be able to receive a request, source and provide Temporary Workers to the relevant specification within the timescales set out below (the Service Levels):

	To fulfil a forecast vacancy e.g. maternity leave	To fulfil an unpredicted vacancy e.g. sick absence	Report Writing – short format	Report Writing – full report
Acknowledgement of request	within 2 hours following receipt	within 2 hours following receipt	within 2 hours following receipt	within 2 hours following receipt

Provision of CVs	Within 3 days following request	Next working day	Same day or next morning if request received after 4.00pm	Within 3 days following request
Selection to Acceptance	1 working day	Same working day	Same working day	1 working day
Temporary Worker in post	within 2 days following selection/all other Authority checks in place and Purchase Order number issued*	Next working day following selection/all other Authority checks in place and Purchase Order number issued*	Next working day following selection/all other Authority checks in place*	within 2 days following selection/all other Authority checks in place*

- Exceptions to these timescales will apply for Temporary Workers being provided to Approved Premises where the Temporary Worker will be required to be in place within 24hrs/next working day following receipt of request.
- Where additional vetting is required, as deemed appropriate by the Authority, the timescales for the candidate to be in post will not apply as this will be impacted by the Authority's timescales for completion of the internal vetting process.
- Temporary Workers cannot commence the Temporary Worker Services until a Purchase Order number has been received by the Supplier.
- All checks that the Supplier is required to undertake must have been completed before CVs are submitted to the Authority.
- The Supplier must be able to supply contact details (landline, mobile, email address) for receipt of requests and must be contactable between the hours of 08:30 – 18:00, Monday – Friday.
- To ensure that Temporary Worker's entitlements can be met under the Agency Worker Regulations, information regarding terms and conditions (including sources of support) that are in place within NPS will be supplied to the provider as part of the implementation process and will be regularly updated.
- Suppliers must work with the Authority to ensure that workers are kept up-to-date with changes to the NPS. A process to obtain key practice changes and Probation Instruction updates will be discussed at the implementation stage.
- Providers must make workers aware of the relevant support arrangements in place within NOMS which workers can access.

Part B - Temporary Worker Services

This Framework Schedule 1 Part B is to set out the Services available under this Framework Agreement and which are subject to Order by the Authority. At such time as the Authority places an Order for Services, the particulars of the Services required by the Authority and any specific terms applying to such Services shall be specified in the ensuing Call-Off Agreement.

The Temporary Worker Services for each grade of Temporary Worker are set out in annexes 1, 2, 3, 4 and 5.

Pre-Sentence Report Writing

- 3.1 There is a specific requirement for the Supplier to supply Temporary Workers at probation officers level (see Annex 5 for specification) to write pre-sentence reports (typically, Short format reports and full reports), and Temporary Workers at probation services officers (see Annex 4 for specification) to write short format reports only.
- 3.2 Due to the timescales imposed by the courts for the completion of reports (between 1- 5 days for a short format report and up to 15 days for a full report), there is a need for workers to be provided within short timescales. The provider must be able to supply a Temporary Worker within 24 hours for a short format report requirement or within 5 days if a longer provision is required.
- 3.3 The expected time taken for by a Temporary Worker for completion of these reports is attached in Annex 6.
- 3.4 The provider must be able to supply workers to those divisions within the National Probation Service (within the Lot they have been awarded) – see paragraph 2.3 for link to map. Workers will be located within either Offender Management Units or Probation offices within Court buildings though may also be required in exceptional circumstances to attend a prison for purposes of interviewing an offender if required.

Annex 1

**JOB& PERSON SPECIFICATION PROFILE
PROBATION SERVICES OFFICER VIA AN AGENCY**

JOB TITLE: Probation Services Officer (PSO)

HOURLY RATE: PAYE: £13.44 - £14.19(*plus an extra £2.01 per hour for London Weighting where applicable*)
Combined Rate/Umbrella: £18.82-£19.87(*plus an extra £2.82 for London weighting where applicable*)

LOCATION: Anywhere across the NPS Estate

ESSENTIAL CRITERIA

1. Possession of a probation services officer level qualification NVQ level 3 in Criminal Justice or previous experience as a probation services officer (where they began practicing prior to the introduction of the NVQ Level 3)
2. Experience of working with, and supporting offenders
3. Experience of risk assessment and management, including the ability to use/learn quickly, risk assessment and case management tools including nDelius, OASys and RSR (and potentially SARA)
4. Ability to develop and sustain effective working relationships with staff in other agencies.
5. Knowledge of the Criminal Justice System and up to date legislation
6. Experience of writing detailed reports to strict deadlines and quality standards i.e. Court reports **(only if required to fulfil a Court PSO role)** including completion of the RSR tool
7. Ability to communicate effectively orally and in writing with offenders, Professionals, Courts and Public fora
8. Ability to travel to Prisons, Court (only if required to fulfil a Court PSO role), Offenders' homes and other locations as required
9. Ability to work flexible hours, including occasional evenings and weekends
10. Experience of promoting equality and diversity
11. Understanding of and commitment to principles of case management
12. Knowledge of aims and objectives of the Probation Service
13. Understanding of Health & Safety legislation in the workforce

BRIEF SUMMARY OF ROLE

Roles that a PSO may be required to undertake include:

- Court Officer
- Offender Manager in the community
- Offender Supervisor
- Approved premises cover (day time only)

Depending on the role, work may include:

- Supervising and working with offenders to analyse and address their behaviour;
- Assessing offenders needs;
- Writing and presenting reports in court about offenders **(if required to cover a Court PSO role)**
- Contributing to the assessment and management of risk posed by an individual
- Accurate case recording

Annex 2

**JOB& PERSON SPECIFICATION PROFILE
PROBATION OFFICER VIA AN AGENCY**

JOB TITLE: Probation Officer
HOURLY RATE: PAYE: £16.76-£18.70(*plus an extra £2.01per hour for London weighting where applicable*)
Combined/Umbrella: £23.47-£26.19(*plus an extra £2.82 per hour for London Weighting where applicable*)
LOCATION: Anywhere across the NPS Estate

ESSENTIAL CRITERIA

1. Possession of a probation officer level qualification obtained in England and Wales. This would include a CQSW, Diploma in Social Work Studies, Diploma in Probation Studies or a Probation Framework Qualification (VQ5) as specified in the Regulatory Framework.
2. Experience of working with and supporting offenders or vulnerable people
3. Experience of risk assessment and management, including the ability to use/learn quickly, risk assessment tools including OASys, SARA and RSR
4. Working knowledge of Multi Agency Public Protection Arrangements
5. Experience of writing detailed reports (for Parole Boards)
6. Ability to develop and sustain effective working relationships with staff in other agencies.
7. Knowledge of the Criminal Justice System and up to date legislation
8. Experience of writing detailed reports to strict deadlines and quality standards including Court reports including completion of the RSR tool and parole reports
9. Ability to communicate effectively orally and in writing
10. Experience of using and maintaining NPS databases – nDelius and OASys
11. Ability to travel to Prisons, Court (only if required to fulfil a Court PO role), Offenders' homes and other locations as required
12. Ability to work flexible hours, including occasional evenings and weekends
13. Experience of promoting equality and diversity
14. Knowledge of aims and values of the NPS and NOMS
15. Experience of making effective referrals to and managing relationships between offender management, court teams, victim contact unit, interventions, Approved Premises, prisons and external agencies to enhance positive outcomes, manage risk and reduce reoffending

BRIEF SUMMARY OF ROLE

Roles that a Probation Officer may be required to undertake include:

- Offender Manager in the community or prison
- Court Officer
- Programme Facilitator
- Approved premises cover (day time only)

Depending on the role, work may include:

- Working with offenders to analyse and address their behaviour;
- Assessing offender needs;
- The preparation and delivery of reports (Court, Parole etc)
- The assessment and management of the risk of serious harm posed by individuals
- Accurate case recording

Annex 3

**JOB& PERSON SPECIFICATION PROFILE
SENIOR PROBATION OFFICER VIA AN AGENCY**

JOB TITLE: Senior Probation Officer
HOURLY RATE: PAYE: £19.34-19.97 (*plus an extra £2.01 per hour for London weighting where applicable*)
Combined/Umbrella: £27.07-£27.95 (plus an extra £2.82 for London weighting where applicable)
LOCATION: Anywhere across the NPS Estate

ESSENTIAL CRITERIA

1. Possession of a probation officer level qualification obtained in England and Wales. This would include a CQSW, Diploma in Social Work Studies, Diploma in Probation Studies or a Probation Framework Qualification (VQ5) as specified in the Regulatory Framework
2. Experience of working at Manager level including day to day people and performance management
3. In depth knowledge of the operational standards and policies within Offender Management including risk management and public protection requirements
4. Ability to develop and sustain effective working relationships with staff in other agencies.
5. Knowledge of the Criminal Justice System and up to date legislation
6. Proven organisational skills including the ability to meet deadlines
7. Experience of using NPS Databases – nDelius and OASys.
8. Ability to work flexible hours, including occasional evenings and weekends
9. Committed to implementing anti-discriminatory policy and practice and championing diversity
10. Experience of contributing directly to public protection through multi-agency arrangements and individual case work review, discussion and feedback

BRIEF SUMMARY OF ROLE

Role that an SPO may undertake include:

- Team Manager – this could be across all areas of the business including Offender Management, Approved Premises (during the day time) or others

Depending on the role, work may include:

- Ensure delivery of effective Offender Management by the team to achieve high standards of public protection and a reduction in re-offending.
- Operational partnership working in the Local Delivery Unit, criminal justice and public protection systems.
- Management of the activities in the team to ensure effective distribution, completion and monitoring of activity to achieve operational and strategic goals.
- Implementation of policy and practice instructions in the team to deliver high standards of performance.
- Ensuring the team works effectively together to deliver and record high performance
- Working with partners to ensure effective multi agency action on individual cases and to meet specific local requirements
- Manage all activity within the team to meet standards and conform to National Policy.

Annex 4

**JOB & PERSON SPECIFICATION PROFILE
REPORT WRITER (PROBATION SERVICES OFFICER)
VIA AN AGENCY**

JOB TITLE: Report Writer (Probation Services Officer)

RATE: Please see rate card of costs per report

REPORT TYPES: Short Format and Full report (oral and written)

LOCATION: Anywhere across the NPS Estate (including Courts)

ESSENTIAL CRITERIA

1. Possession of a probation services officer level qualification NVQ level 3 in Criminal Justice
2. Experience of working with offenders
3. Experience of risk assessment and management, including the ability to use/learn quickly, risk assessment tools including OASys and RSR (and potentially SARA if required)
4. Knowledge of the Criminal Justice System and up to date legislation
5. Experience of writing detailed reports to strict deadlines and quality standards i.e. Court reports including completion of the RSR tool
6. Ability to communicate effectively orally and in writing
7. Experience of using and maintaining NPS databases – nDelius and OASys
8. Ability to work flexible hours, including weekends
9. Experience of promoting equality and diversity

BRIEF SUMMARY OF ROLE

Roles that a Report Writer may be required to undertake include:

- Interviewing offenders
- Conducting assessments based on risk
- Writing reports/presenting oral reports – within timescales set by the Courts i.e. on the day or 5 days
- Accurate case recording

Annex 5

**JOB& PERSON SPECIFICATION PROFILE
REPORT WRITER (PROBATION OFFICER) VIA AN AGENCY**

JOB TITLE: Report Writer (Probation Officer)

RATE: Please see rate card of costs per report

REPORT TYPES: Short Format and Full Report (oral and written)

LOCATION: Anywhere across the NPS Estate (including Courts)

ESSENTIAL CRITERIA

1. Possession of a probation officer level qualification obtained in England and Wales. This would include a CQSW, Diploma in Social Work Studies, Diploma in Probation Studies or a Probation Framework Qualification (VQ5) as specified in the Regulatory Framework.
2. Experience of working with offenders
3. Experience of risk assessment and management, including the ability to use/learn quickly, risk assessment tools including OASys, SARA and RSR
4. Knowledge of the Criminal Justice System and up to date legislation
5. Experience of writing detailed court reports to strict deadlines and quality
2 Standards including completion of the RSR tool
6. Ability to communicate effectively orally and in writing
7. Experience of using and maintaining NPS databases – nDelius and OASys
8. Ability to travel to Prisons as required
9. Ability to work flexible hours, including weekends
10. Experience of promoting equality and diversity

BRIEF SUMMARY OF ROLE

Roles that a Report Writer may be required to undertake include:

- Interviewing offenders
- Conducting assessments based on risk
- Writing reports/presenting oral reports – within timescales set by the Courts i.e. on the day, 5 days or 15 days
- Accurate case recording

Annex 6

Report	Hours per report	NPS pay rate per report (PO)	NPS target pay rate per report (PSO)	Agency Fee	Agency NI contribution fee	Agency Annual Leave fee
Presentence report: Full report	8 hrs	PAYE: £134.08 - £149.60 Umbrella: £187.76 - £209.52 London weighting to be added where applicable	N/A – can only be written by a PO.			
Presentence report: Short Format (including a non-report where the interview was not attended but the report writer is able to provide a sentencing recommendation based on previous information)	2½ hours	PAYE: £41.90 - £46.75 Umbrella: £58.68 - £65.48 London weighting to be added where applicable	PAYE: £33.60 - £35.48 Umbrella: £47.05 - £49.68 London weighting to be added where applicable			
Non-Report (where report writer is unable to provide a report or sentencing recommendation due to non-attendance for report interview)	2 hours	PAYE: £33.52-£37.40 Umbrella: £46.94 - £53.38 London weighting to be added where applicable	PAYE: £26.88-£28.38 Umbrella: £37.64-£39.74 London weighting to be added where applicable			

Part C – Technology Requirements

This Framework Schedule 1 Part C is to set out the technology requirements where the Supplier is providing a portal service to the Authority.

Technology Requirements

1. Portal

This Requirement applies if a Supplier intends to provide a Portal service to the NPS. The use of a portal as part of meeting the requirement is optional.

The Supplier shall provide and host an online Portal, to be used by agency workers, hiring managers and other NPS staff (“Users”) for the processing of services to include timesheet submission and approval and provision of Management Information.

During the Implementation Period, the Supplier shall work with the Authority to develop, review and test the Portal, and shall ensure that the Portal complies with all requirements, including but not limited to content and functionality, set out in this Schedule and elsewhere in the Contract.

The Supplier shall provide for the secure hosting of the portal on a secure platform.

The Supplier shall ensure that the Portal and the secure platform comply with the MoJ security.

The Supplier shall ensure that the Portal is available for use by Users from Monday to Friday between the hours of 7am to 7pm (“Hours of Service”).

Help should be available to support the Users of the Portal during the Hours of Service including contact details for the Supplier’s helpdesk.

A function for Users to search for, view and approve all submitted timesheets for NPS temporary workers.

The Supplier shall issue confirmation to the relevant User that a timesheet has been received, amended or cancelled or still outstanding, via a secure email to a designated email address:

The Portal shall as a minimum:

- provide an automated reminder where an outstanding action exists against a request;
- be accessed by Users using customer unique log in details and passwords provided by the Supplier on an individual or group location (administration centre) basis;
- contain copies of frequently used forms that can be downloaded as timesheet pro forma.

2. Portal training requirements

The Supplier shall provide training and guidance documents to Users on how to use the Portal during the Implementation Period and during the Contract Period.

Training must be hosted by and accessed through the Portal, and training and guidance documents must include as a minimum:

- practical training that allows each User’s staff to practice using a dummy system, before using the live system;
- guidance, trouble shooting and frequently asked questions documents that can be easily saved and printed; and
- guidance on how to:
 - complete and submit timesheets online;
 - amend a timesheet;

OFFICIAL SENSITIVE

- cancel a timesheet;
- review a timesheet;
- make a complaint; and
- provide feedback on the service provided.

The Supplier shall develop and provide appropriate training in relation to the Portal in response to any training needs identified by the Authority throughout the Contract Period.

In the event of any significant changes to the Portal, the Supplier shall provide appropriate training and guidance documents to all Commissioning Bodies.

3. Portal Maintenance

In the event of a planned Portal upgrade or maintenance, the Supplier shall notify all Users no later than five Working Days in advance of any work which could affect functionality and/or availability of the Portal detailing the intended duration of the work and how the Supplier will maintain the ability to submit and manage timesheets during that period.

The Supplier shall use best endeavours to ensure that upgrade or maintenance work that may affect functionality and/or availability of the Portal is undertaken outside of Hours of Service.

Within one week of rectification of Portal unavailability, the Supplier shall record and upload all relevant data onto the Portal to ensure accuracy of management information and data.

The Supplier shall maintain an up to date contingency plan for Portal unavailability (including planned and unplanned unavailability). Notwithstanding the contingency plan, the Supplier shall remain responsible for meeting the requirements of this Contract in the event of Portal unavailability.

The Supplier shall provide a draft contingency plan for Portal unavailability to the Authority during the Implementation Period. The Authority shall notify the Supplier whether or not it approves the draft plan and, where the Authority does not approve the draft plan, it shall provide comments on the draft plan. The Supplier shall promptly address the comments in an updated draft plan and provide such updated draft plan to the Authority. This process shall be repeated until the draft plan is approved by the Authority. Thereafter, the Supplier shall update the plan annually and this process shall apply to each update of the plan.

The Supplier shall provide the contingency plan for Portal unavailability and any updated versions to each User within three Working Days of approval.

4. Telephone helpdesk

The Supplier shall provide a helpdesk to provide advice and support on all performance issues, general enquiries and any other enquiries relating to the Services and the Portal.

The Supplier shall ensure that the telephone helpdesk is available between 7am to 7pm Monday to Friday;

The Supplier shall ensure that calls to the telephone helpdesk are answered within 20 seconds of the first ring.

The Supplier's telephone helpdesk service shall have a dedicated non premium rate and/or no call connection charge, telephone number. This telephone number must be accessible from UK landlines, mobile telephones and overseas, via a UK dialling code and be able to accept calls from outside the UK.

Technology Specifications

1. General Requirements

- 1.1 The portal service shall be designed and implemented to minimise the potential for intrusion and data loss and shall include provision for logging and auditing usage and access.
- 1.3 The portal service shall be assured and accredited for handling HMG information in line with HMG Security Guidelines, which include the establishment and implementation of personnel, application, technical and physical security controls. The Authority may conduct an IT health check (being a CHECK team implemented vulnerability scan and penetration test) as part of the accreditation process.
- 1.4 The IT elements of the service shall be fully supported by the Supplier for the Agreement Period, such support to include monitoring, reporting, updates and patching, technical support and training, reporting and resolution of problems and incidents, and change management.
- 1.5 On expiry or termination of the Agreement, the Supplier shall provision for support to business continuity and to migrate any required information to a Replacement Supplier(s) in accordance with the terms set out in the Agreement.
- 1.6 The portal service should be based as far as feasible on open source and open data standards.

2. Access

- 2.1 The portal service must provide robust role based access at all levels from infrastructure and administration through to end user.
- 2.2 The portal service must be capable of limiting users to a single logon at anyone time and any exceptions to this must be clearly identified.
- 2.3 Access to the booking service must be authenticated using user names and passwords. All such passwords must comply with HMG Security Guidelines.
- 2.4 Administrators must have the ability to reset a user's password and users must have the ability to change their own password.

3. Archive

- 3.1 Users must be able to access archived data within 24 hours of a legitimate request being made.
- 3.2 It must be possible to identify and securely destroy data that is older than the retention period notified to the Supplier by each User from time to time.

4. Audit, logging and monitoring

- 4.1 The Supplier shall put in place appropriate monitoring tools and processes to support and maintain the Key Performance Indicators and Service Levels and to identify any changes in demand or usage of the service.
- 4.2 The portal service must maintain logs and records for audit purposes. Audit logs and records must be maintained in a way that facilitates finding or identifying specific items within the log, and which supports a policy of forensic readiness capable of supporting the investigation and response to security breaches.
- 4.3 The portal service must maintain a log or record of all access to the booking service. The access log will be maintained such that it is possible to identify all successful and unsuccessful access attempts.
- 4.4 The portal service must log or record all operations and changes made to data and information. As a minimum, it should be possible to identify the user that accessed the service, and the time the access or any change was made, including changes and uploads made by web users.

- 4.5 Audit and monitoring logs and records must be available to designated authorised users.
- 4.6 It must not be possible to amend or delete any audit trail without a separate audit event capturing these changes.
- 4.7 Audit and log data must be held for the same amount of time as the source data it pertains to (i.e. for the same data retention period).
- 4.8 When data or information is changed, a record of the original data must be maintained.
- 4.9 The service must not delete from audit and monitoring logs any data relating to users who have been removed from the booking service.
- 4.10 The creation and storage of audit logs must not impact on the performance of the booking service.
- 4.11 In the event of error or component failure, the relevant log files must provide enough information to support investigation and isolation of the point and possible cause of failure.

5. Availability and resilience

- 5.1 The portal service must be sufficiently robust and resilient to meet the required hours of operation, with no single points of failure and designed to minimise data loss.
- 5.2 It must be possible to restore the portal service to a known point (for example in the event of a failure or for other business reason). In support of this the Supplier must provide a backup and storage approach that will ensure that data loss is minimised and that data can be restored within a reasonable period, to be approved by the Authority.
- 5.3 Backups must be verified to ensure that they are capable of being restored and the restore procedures should be successfully tested on a regular basis but at least annually.
- 5.4 Backup data must be transported and stored securely in line with Authority Information Assurance Guidelines.

6. Business continuity and disaster recovery

- 6.1 The Supplier shall ensure that their Business Continuity and Disaster Recovery Plan produced in accordance with the Agreement includes disaster recovery for the booking service.
- 6.2 In the event of a disaster, the Supplier shall minimise data loss. The Supplier shall clearly identify the maximum potential data loss and propose within their booking service design mechanisms and processes to facilitate data recovery and minimise the impact of data loss.

In the event of an incident, any proposed recovery arrangements must be capable of supporting the business until such time as the full booking service is restored and the Supplier shall clearly identify any constraints around such provision.

7. Capacity

- 7.1 The portal service must be capable of managing and storing the volume of data and information produced by the service.
- 7.2 The portal service must be able to support the anticipated required number of users as during Hours of Service.
- 7.3 The portal service must support changes in capacity and demand as required.

8. Compliance and Policy

- 8.1 All Supplier Staff working on the service with access to customer and user data shall be security cleared to a minimum of baseline standard.
- 8.2 The portal service should be designed in such a way as to facilitate Authority's compliance with the Equalities Act 2010 and other equalities legislation to ensure that the booking service meets

relevant accessibility and usability standards as referenced in Government Digital Service Guidance.

- 8.3 The portal service must facilitate the Authority's compliance with Laws, including but not limited to provisions for controlling access to data and monitoring changes.
- 8.4 The Supplier shall ensure that all services are in accordance with current industry and government best practices for accessibility and must work with commonly available assistive technologies.
- 8.5 The service must facilitate compliance with Laws relating to the use of the Welsh Language including the Welsh Language Measure 2011.
- 8.6 The Supplier shall maintain good practices in respect of coding, development, document management and record keeping which the Authority may access and audit on request.
- 8.7 The portal service shall be capable of identifying to the user at initial logon that:
 - 8.7.1 only authorised users may logon to the booking service;
 - 8.7.2 by logging on, users accept that their activities are subject to protective monitoring; and
 - 8.7.3 any unauthorised access or misuse of the booking service is a criminal act under the Computer Misuse Act 1990.
- 8.8 The portal service will meet Cabinet Office digital standards, including prioritising the use of open source, open standards, open data standards and use of common components and services.

9. Data integrity

- 9.1 The portal service must maintain the integrity of information that is processed. It must ensure that changes are completed and confirmed by the user, and are auditable (and cannot be repudiated), before they are applied.
- 9.2 It shall not be possible for more than one person to update a record at the same time.
- 9.3 The portal service must validate data at the point of entry. Data validation will include enforcement of any appropriate and agreed data standards or formats.
- 9.4 The service shall ensure that once a transaction has been committed by a user, the effects will persist in the booking service and will not be lost or undone except due to deliberate further action by the same user or by another authorised user.
- 9.5 The service shall provide the means to restore the business data to a known, consistent state following the discovery of any fault in the application software
- 9.6 Data no longer required (subject to retention rules or authorised requests from the Authority) shall be securely removed / deleted in accordance with Schedule 14.

10. Design and usability

- 10.1 The portal service shall be capable of automatically changing between GMT and BST and will record or display the correct UK time
- 10.2 The design of the portal service shall take into account current Government Digital Service Guidance on design and usability.
- 10.3 The requirements of the portal service for web browsers must adhere to the Authority Web Browser Standards and any exceptions to this principle shall be clearly identified and justified by the Supplier to the satisfaction of the Authority.
- 10.4 The portal service will produce on screen error messages which are meaningful and appropriate to users, and which offer immediate prompts for actions to resolve the error wherever appropriate.

11. Documentation

- 11.1 The Supplier will provide sufficient training and guidance documentation to support independent technical and security assessment of the status of the booking service as set out in Schedule 2.

11.2 The Supplier shall keep all documentation up to date and reflect the current state of any technology and procedures associated with the booking service at all times.

12. Support, maintenance, testing and service provision

12.1 The Supplier shall support and maintain the booking service for the Contract Period and shall have a documented service management approach which includes but not limited to incident, problem, change and service level management disciplines.

12.2 Changes/releases identified to impact end users shall be subject to user acceptance testing (at minimum) before implementation. No changes will be made to the portal service unless they have been adequately tested first to the satisfaction of the Authority.

12.3 The Supplier shall propose for agreement the recovery point and recovery time objective for the service.

12.4 Prior to the Services Commencement Date, all outstanding defects discovered during testing (including functional and non-functional areas e.g. OAT/UAT) should be documented and a live service based impact assessment completed. The impact assessment shall be:

- service based;
- end user based; and
- support based.

12.8 The Supplier shall provide and comply with its own documented standard incident management targets and incident classification scheme.

12.9 The Supplier shall provide and comply with its framework that describes both hierarchical and functional escalations paths for the service.

13. Interoperability

13.1 The service shall be capable of importing or exporting data and interfacing with other services using recognised formats or protocols (e.g.XML, SOAP, CSV) if and where the Supplier's proposal requires an interface with other systems.

13.2 It must be possible to export all data held in the portal service in a recognised open format such as XML or CSV.

14. Security and information assurance – general

14.1 The service must be protected by appropriate people, process, technology and physical security controls as part of a 'defence-in-depth' approach.

14.2 The Supplier shall comply cyber security and information assurance requirements stated in the Agreement.

FRAMEWORK SCHEDULE 2: CHARGING STRUCTURE**1. GENERAL PROVISIONS**

- 1.1 The Framework Prices set out in this Framework Schedule 2 are the maximum that the Supplier may charge pursuant to any Call-Off Agreement. For the avoidance of doubt, the provisions of this Schedule do not stop the Authority from agreeing Charges that are lower than the Framework Prices.
- 1.2 The Supplier acknowledges and agrees that any Charges submitted in relation to a further competition held in accordance with Framework Schedule 3 (Ordering Procedure) shall be equal to or lower than the Framework Prices.
- 1.3 In accordance with Clause 2.4, The Supplier's commission as set out in the table below shall be fixed for the duration of the Framework Agreement and all Call-off Agreements. The

Report	Hours per report	NPS pay rate per report (PO)	NPS target pay rate per report (PSO)
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Temporary Worker Rate may be varied only in accordance with Clause 33.4.

- 1.4 The Supplier acknowledges and agrees that it is not permitted under the terms of this Framework Agreement or any Call-off Agreement to charge either temp to perm or temp-to-temp fees of the kind described as "transfer fee" in Regulation 10 of "the Conduct of Employment Agencies and employment Businesses Regulations 2003".

FRAMEWORK PRICES

- 1.5 All prices and rates shall be dealt with on an "open book" basis. "Open book" means the transparent sharing of all accounting information including actual costs and margin in order to aid financial governance and to enable structured cost reduction initiatives.

Supplier Commission:

REDACTED

Temporary Worker Rates:

	(PAYE) Costs before Agency Fee	Combined Rate (Ltd / Umb)	
Probation Service Officer	£12.73	£ 17.82	
	£13.44	£ 18.82	<--Target
	£14.19	£ 19.87	<---Max
Probation Officer	£15.87	£ 22.22	
	£16.76	£ 23.47	<--Target
	£18.70	£ 26.19	<---Max
Senior Probation Officer	£18.73	£ 26.22	
	£19.34	£27.07	<--Target
	£19.97	£27.95	<---Max
London Allowance (where applicable)	£2.01	£2.82	<---Max

Report Writing Rates:

Presentence report: Full report (SDR)	8 hrs	PAYE: £134.08 - £149.60 Umbrella: £187.76 - £209.52 London weighting to be added where applicable	N/A – can only be written by a PO.
Presentence report: Short Format (FDR) (including a non-report where the interview was not attended but the report writer is able to provide a sentencing recommendation based on previous information)	2½ hours	PAYE: £41.90 - £46.75 Umbrella: £58.68 - £65.48 London weighting to be added where applicable	PAYE: £33.60 - £35.48 Umbrella: £47.05 - £49.68 London weighting to be added where applicable
Non-Report (where report writer is unable to provide a report or sentencing recommendation due to non-attendance for report interview)	2 hours	PAYE: £33.52-£37.40 Umbrella: £46.94 - £53.38 London weighting to be added where applicable	PAYE: £26.88-£28.38 Umbrella: £37.64-£39.74 London weighting to be added where applicable

FRAMEWORK SCHEDULE 3: ORDERING PROCEDURE

1. AWARD PROCEDURE

- 1.1 If the Authority decides to source the Temporary Worker Services through this Framework Agreement then it shall award a Call-Off Agreement in accordance with the procedure in this Framework Schedule 3 (Ordering Procedure) and the requirements of the Regulations and the Guidance.

In all circumstances, the Authority shall place an Order in accordance with the procedures set out in paragraph 2 (Further Competition Procedure) below.

- 1.2 The Authority shall be entitled to share information relating to further competitions run by it pursuant to this Framework Agreement, Orders that it places with the Supplier, pricing information (which includes information on prices tendered in a further competition, even where an Order is not placed) and the terms of any Call-Off Agreement with the Authority subject always to the provisions of Clause 21 (Confidentiality).

2. FURTHER COMPETITION PROCEDURE

2.1 Authority's Obligations

When ordering Temporary Worker Services under the Framework through a further competition the Authority shall:

- 2.1.1 complete the Order and send it to the Supplier and (subject to paragraph 4 below) all other suppliers on the relevant Lot;
- 2.1.2 invite responses for its Temporary Worker by conducting a further-competition for its Services Requirements in accordance with the Regulations and Guidance and in particular:
- 2.1.3 apply the Further Competition Award Criteria to the Framework Suppliers' compliant tenders submitted through the further competition as the basis of its decision to award a Call-Off Agreement for its Services Requirements;
- 2.1.4 on the basis set out above, award its Call-off Agreement by sending a Purchase Order to the successful Supplier in accordance with paragraph 5 (Form of Order)
- 2.1.5 provide unsuccessful Framework Suppliers with feedback in relation to the reasons why their tenders were unsuccessful.

2.2 The Supplier's Obligations

The Supplier shall in writing, by the time and date specified in the Service Levels provide the Authority with either:

- 2.2.1 a statement to the effect that it unable to tender in relation to the relevant Services Requirements; or
- 2.2.2 the Order with the Supplier sections completed, together with as a minimum:
 - (a) an email response subject line to comprise unique reference number and Supplier name, so as to clearly identify the Supplier;
 - (b) a brief summary, in the email, stating whether or not the Supplier is bidding for the Services Requirements;
 - (c) CVs of key personnel – as a minimum any lead consultant, with others, as considered appropriate along with required staff levels.
- 2.2.3 The Supplier shall ensure that any prices submitted in relation to a further competition held pursuant to this paragraph 2 (Further Competition Procedure) shall

be based on the charging structure set out in Schedule 2.

2.2.4 The Supplier agrees that:

- (a) all tender responses submitted by the Supplier in relation to a further competition held pursuant to this paragraph 2 (Further Competition Procedure) shall remain open for acceptance by the Contracting Authority for sixty (60) days (or such other period specified in the invitation to tender issued by the Authority in accordance with the Ordering Procedure); and
- (b) all tenders submitted by the Supplier are made in good faith and that the Supplier has not fixed or adjusted the amount of the offer by or in accordance with any agreement or arrangement with any other person. The Supplier certifies that it has not and undertakes that it shall not:
 - (i) communicate to any person other than the person inviting these offers the amount or approximate amount of the offer, except where the disclosure, in confidence, of the approximate amount of the offer was necessary to obtain quotations required for the preparation of the offer; and
 - (ii) enter into any arrangement or agreement with any other person that he or the other person(s) shall refrain from making an offer or as to the amount of any offer to be submitted.

3. **NO AWARD**

Notwithstanding the fact that the Authority has followed a procedure as set out in this Framework Agreement, the Authority shall be entitled at all times to decline to make an award for its Services Requirements. Nothing in this Framework Agreement shall oblige the Authority to place any Order for the Services.

4. **FURTHER COMPETITION ACROSS ALL LOTS**

- 4.1 Where, following a further competition, both suppliers on a particular Lot have been unable to provide a Temporary Worker as requested by the Authority, the Authority reserves the right to extend the further competition to the suppliers who have been appointed to the other Lots on the Framework.

5. **FORM OF ORDER**

- 5.1 The Authority, in providing a Purchase Order pursuant to paragraph 2.1.4 above, shall enter into a Call-Off Agreement with the Supplier for the provision of Temporary Worker Services referred to in that Order. A Call-Off Agreement shall be effective from the commencement date that is specified in that Call-Off Agreement.

FRAMEWORK SCHEDULE 4: AWARD CRITERIA**MINI COMPETITION CRITERIA**

Where the Authority adopts this process it must apply the following criteria:

Further Competition Criteria		
Stage 1: Quality Criteria		
Criteria	Score	Comments and Feedback to Supplier (for audit)
Whether supplier's proposal appropriately meets the requirement?	Pass/ Fail	
Availability of worker	Pass/ Fail	
Stage 2: Price		
Supplier offering a technically compliant bid (achieving "pass" in technical evaluation) and lowest price at stage 2 will be the successful supplier in further competitions.		

FRAMEWORK SCHEDULE 5: ORDER AND CALL-OFF TERMS

Part 1

Operational Temporary Worker Call-off Form

OP1 - NPS Agency Operational Workers Order Form	
Section 1 - NPS Divisional Details	
a) NPS Temporary Agency Operational Workers Suppliers	Red Snapper Recruitment Ltd and Servoca Resourcing Solutions Ltd
b) Agencies email addresses (Email this form to both)	REDACTED
c) Hiring Managers Name (who approves the expenditure)	
d) Hiring Managers email address	
e) NPS Division (choose from drop down)	
f) NPS LDU	
g) Reporting Managers Name (who the worker should report to)	
h) Reporting Managers email address	
i) Reporting Managers contact number	
Section 2 - NPS Requirement Details	
a) Is this a new requirement, extension of assignment or same worker exception process request?	
b) Type of work (Choose from drop down)	
c) Requested start date of assignment:	
d) Likely duration of assignment (number of weeks):	weeks
e) Location of assignment (work address):	
f) Hours of work (number of hours per week):	hours per week
g) Will travel to other offices be required (Choose from drop down):	
h) Will the agency worker be expected to work weekends/bank holidays? (Choose from drop down)	
i) Are there any special qualifications/experience required other than those within the contract? (such as experience with certain types of cases etc.) If so, please state	
Now email this form to BOTH suppliers: REDACTED	
Under the terms of the new contract, NPS Managers MUST send this order form to BOTH Red Snapper and Servoca. This initiates a mini competition so the hiring manager/reporting manager can choose the supplier who meets NPS needs and offers the best value for money.	
Section 3 - For Agency Use Only	
a) Agency Name	
b) Agency Representative Name	
c) Agency Email	
d) Agency Contact Number	

e) Number of CVs provided	
f) Do all candidates have the required qualifications?	
g) Can all candidates meet the required minimum start dates:	
h) Do all candidates have the required minimum vetting?	
i) Charge rate (per hour):	£ per hour
j) Calendar weeks already accrued towards the Qualifying Period for the purposes of Regulation 7 and 8 of the Agency Workers Regulations (AWR):	weeks
k) Any expenses payable:	If expenses have been agreed in section 2g above, a line for £1,000 for expenses will be added to the purchase order for the agency to invoice against.
Note to agency: Once complete, email this form back to the Hiring Manager (with CVs) and copy in Mojprocurementcontingentlabourandrecruitment@justice.gsi.gov.uk so Contingent Labour can file a copy of this form.	
<u>Section 4 - NPS Sign Off</u>	
a) Name of candidate selected and supplier:	
b) Normally you should select the cheapest supplier. If you selected this supplier and they were not the cheapest, please state the justification:	
c) Finance approved by budget holder (usually LDU Head):	
d) PHX164 completed:	
e) Purchase order number (or SSPO number for report writers only) :	
f) Signed: NPS Hiring Manager (PRINT NAME)	
g) Date:	
Now email this form to the chosen agency	
Note to agency: Once completed form received, email this form to Mojprocurementcontingentlabourandrecruitment@justice.gsi.gov.uk so Contingent Labour can file a completed copy of this form.	

Signed: NPS Hiring Manager

[print name here]

Date:

Part 2 Call-Off Terms

The Call-Off Terms shall be comprised of the following clauses from the Framework Agreement which shall be incorporated into each Call-Off Agreement and shall apply mutatis mutandis:

Clause 1 (Definitions and Interpretation);
Clause 2.3 (Duration of Call-off Agreement);
Clauses 3.2 and 3.5 (Scope);
Clauses 4.1.2, 4.5, 4.6, 4.11, 4.12, 4.15, 4.18, 4.19, 4.20.1, 4.20.1, 4.21, and 4.22 (Supplier's Appointment);
Clause 5 (Temporary Worker Services);
Clause 6 (Security Vetting);
Clause 7 (General Security Requirements);
Clause 8 (Non-Exclusivity);
Clause 9 (Intellectual Property);
Clause 10 (Ordering Procedure);
Clause 11 (Timesheets and Ordering);
Clause 12 (Warranties and Undertakings);
Clause 13 (Prevention of Bribery and Corruption and Tax Non-Compliance);
Clause 14 (Safeguard Against Fraud);
Clause 15 (Call-off Agreement Performance);
Clause 16 (Statutory Requirements and Standards);
Clause 17 (Non-Discrimination);
Clause 18 (Audit);
Clause 21 (Confidentiality);
Clause 22 (Transparency);
Clause 23 (Official Secrets Acts);
Clause 24 (Data Protection);
Clause 25 (Freedom of Information);
Clause 26 (Publicity and Branding);
Clause 27 (Termination);
Clause 28.2 (Consequences of Termination);
Clause 30 (Liability);
Clause 31 (Insurance);
Clauses 32.1 and 32.2 and 32.4 (Transfer and Sub-Contracting);
Clause 33.5 (Variation);
Clause 34 (Rights of Third Parties);
Clause 36 (Severability);
Clause 37 (Waiver and Cumulative Remedies);
Clause 38 (Relationship of the Parties);
Clause 39 (Further Assurances);
Clause 40 (Entire Agreement);
Clause 42 (Notices);
Clause 45 (AWR – General Obligations);
Clause 46 (AWR – Authority's Obligations);
Clause 47 (Supplier Obligations);
Clause 48 (Temporary Worker's Annual Leave);
Clause 49 (Temporary Worker's Remuneration);
Clause 50 (Force Majeure);
Clause 51 (Dispute Resolution);
Clause 52 (Law and Jurisdiction); and
Such other clauses from the Framework Agreement which by implication are necessary for the proper performance of the Call-off Agreement.

FRAMEWORK SCHEDULE 6: FRAMEWORK MANAGEMENT

1. INTRODUCTION

- 1.1 The successful delivery of this Framework Agreement shall depend on effective Framework management by the Authority.
- 1.2 This Framework Schedule 6 (Framework Management) outlines the means by which the Authority shall discharge their respective functions in this respect during the Term and until expiry or termination of all Call-Off Agreements.

2. FRAMEWORK MANAGEMENT BY THE AUTHORITY

2.1 Framework Management Structure

- 2.1.1 The Supplier Representative shall take overall responsibility for delivering the Services required within this Framework Agreement, as well as appointing a suitably qualified deputy to act in its absence.
- 2.1.2 The Supplier shall put in place a management structure to manage the Framework.

2.2 Operational Review Meetings

- 2.2.1 Regular performance reviews shall take place throughout the Framework Agreement through operational review meetings ("**Operational Review Meetings**"). The exact timings and frequencies of the Operational Review Meetings shall be determined by the Authority following award of the Framework Agreement. Flexibility from both Parties shall be expected over the frequency, timings and content of these reviews.
- 2.2.2 Operational Review Meetings shall be held between the Authority and the Supplier's management team. The content of the review shall be as set out but not limited to the information required in paragraph 2.2.3 (Operational Review Meetings).
- 2.2.3 The Operational Review Meetings shall focus on the operational performance of this Framework Agreement, including:
 - (a) the Supplier's compliance with its obligations under the Call-Off Agreements;
 - (b) Service delivery;
 - (c) incident and problem management, including Supplier account management function performance; and
 - (d) forward planning, opportunities and future efficiencies including standardisation and rationalisation.

2.3 Strategic Management Reviews

- 2.3.1 The Supplier Representative and Authority Representative shall meet to hold a strategic management review meeting ("**Strategic Management Review**") every twelve (12) Months. The Authority sees these meetings as a vital element in developing a strategic relationship with the Supplier and to promote the building of a positive working relationship. The content of these meetings shall be agreed between both Parties at least ten (10)

Working Days before the date of the Strategic Management Review.

2.3.2 The Strategic Management Review meeting shall consider as a minimum:

- (a) overall Framework performance;
- (b) policy updates including emerging Government initiatives; and
- (c) security and risk management.

2.4 **Management Information**

2.4.1 The Supplier must supply a monthly Management Information report to the Authority's designated contract manager and the Authority Representative.

2.4.2 The Authority may, at any point within the duration of the contract change the requirements of the Management Information documentation without incurring a charge.

2.4.3 The Supplier must supply Management Information relevant to the Lot which they have been awarded, which should be split to reflect the different Local Delivery Units.

2.4.4 This must include, (but not be limited to):

- Number of requests received – split into the different roles
 - Day rate and cost per month
 - Time taken to process referral from request to placement of worker
 - Number of requests fulfilled
 - Number of requests fulfilled to Service Levels
 - Location where worker was provided
 - Average length of assignment (in time e.g. number of days/weeks)
 - Average cost per assignment
 - Number of reports requested; produced; and no reports
 - BPSS/Enhanced DBS status of each worker supplied within that month
 - Any further DBS checks that have been made (due to offences highlighted on the certificate)
- (Note that the Authority may wish to undertake random audit checks to satisfy that the providers are meeting the requirements set out in paragraph 4).
- Any challenges/hotspots – and what activity is being undertaken to address this
 - Exceptions to stated security clearance arrangements
 - Qualitative measures/information must also be provided such as an automated system for rating quality of work completed
 - Dates on when invoices and timesheets were submitted to the Authority in relation to when the timesheet was authorised.

2.5 The Supplier must be able to respond to requests for information e.g. to respond to Parliamentary Questions, for which often tight timescales (e.g. within 24 hrs) are provided. The Supplier must be able to provide complete responses to these requests within the deadline provided.

2.6 The format of Management Information reports will be in the format agreed with the Authority.

3. Key Performance Indicators The below KPI are indicative – the applicable Framework Agreement KPI shall be agreed with the Framework Suppliers by 28th July 2016 and will then be automatically incorporated into the Framework Agreement (at the date of agreement), replacing the below indicative KPI.

Performance Metric	Min Level	Measure
Acknowledgement of request – 2 days following receipt of request	99%	Supplier – to provide monthly report showing responses following receipt of request
Provision of CVs following receipt of request: For long term, 3 working days; short term, next working day and for report writing, same day or next working day if request received after 4pm	99%	Supplier – to provide monthly report showing receipt of request to provision of CVs
Selection to Acceptance: For long term – 1 working day; short term, same working day; report writing, same working day	99%	Supplier – to provide monthly report showing Selection to Acceptance Cycle Time
Acceptance to in post: Forecast vacancy, 2 working days; Unpredicted vacancy, next working day; report writing, next working day The above timescales apply following selection, or if additional checks required by authority, following these	99%	Supplier – to provide monthly report showing acceptance to in post.
Fulfilment Rate	100%	Supplier – to provide monthly report showing Fulfilment Rate
Temporary Workers rejected within 10 working days of commencing assignment	No more than 2%	Supplier – to provide monthly report showing level of Temporary Worker rejection
Complaints : Initial response within 1 working day	100%	Supplier – to provide fully detailed monthly complaints report
Complaints resolved within 5 working days	100%	
Sourcing – All Recommendations are within the agreed Rate Card.	100%	Supplier - to provide Report on Compliance to Rate Card
Supplier to make all Supplier payments (where used) within 5 working days of verified timesheet	100%	Supplier to provide Supplier Payment Profile reports for all exceptions
Supplier to ensure that 100% of payments are made to Temporary Workers within 5 working days from approval of time sheets by the Hiring Manager	100%	Supplier to provide Temporary Worker Payment Profile reports for all exceptions
Provision of accurate Customer Performance Management Report MI by the 15th of each month	100%	Supplier – to provide. Performance Management Report MI as below.

Ensure any ad hoc request for MI is delivered with 72 hours from request or, if required to answer official correspondence, within 24 hours	100%	Supplier – to provide MI as per ad hoc request
Invoices/Timesheets to be submitted to the Authority within a maximum of 72 hours after the timesheet has been authorised	100%	Supplier to provide evidence within MI

FRAMEWORK SCHEDULE 7: INVITATION TO TENDER



NPS ITT volume
1.doc



NPS ITT volume
2.doc



NPS ITT Volume
3.doc



NPS ITT Volume
4.doc

FRAMEWORK SCHEDULE 8: SUPPLIER'S TENDER RESPONSE

1. This Framework Schedule 8 (Supplier's Tender Response) is taken from the Supplier's response dated and describes how the Supplier proposes to provide the Services.
2. Nothing contained in this Framework Schedule 8 (Supplier's Tender Response) shall diminish or limit the Supplier's obligations under this Framework Agreement and any Call-Off Agreement made hereunder.

See Schedule 8, Annex A for Supplier's Response

Schedule 8, Annex A for Supplier's Response

REDACTED

FRAMEWORK SCHEDULE 9: TEMPORARY WORKER CONDITIONS

The following clauses shall be incorporated into every Temporary Worker Agreement (subject to correct numbering):

10.1 [The Employment Business, the Client or the Temporary Worker] may terminate the Assignment at any time without prior notice or liability.

10.2 The Temporary Worker acknowledges that the continuation of an Assignment is subject to and dependent on the continuation of the agreement entered into between the Employment Business and the Client. If that agreement is terminated for any reason, the Assignment shall cease with immediate effect without liability to the Temporary Worker, except for payment for work done up to the date of termination of the Assignment.

10.3 Unless exceptional circumstances apply, the Temporary Worker's failure to inform the Client or the Employment Business of their inability to attend work as required [] will be treated as termination of the Assignment by the Temporary Worker.

10.4 If the Temporary Worker is absent during the course of an Assignment and the Assignment has not otherwise been terminated, the Employment Business will be entitled to terminate the Assignment in accordance with *clause 10.1* if the work to which the Temporary Worker was assigned is no longer available.

The Temporary Worker acknowledges that all Intellectual Property Rights deriving from services carried out by the Temporary Worker for the Client during the Assignment shall belong to the Client. Accordingly, the Temporary Worker shall execute all such documents and do all such acts as the [Employment Business **OR** Client] shall from time to time require in order to give effect to the Client's rights pursuant to this clause.

12. CONFIDENTIALITY

12.1 In order to protect the confidentiality and trade secrets of the Employment Business and the Client, the Temporary Worker agrees not at any time:

(a) whether during or after an Assignment (unless expressly so authorised by the Client or the Employment Business as a necessary part of the performance of their duties), to disclose to any person or to make use of any of the trade secrets or the Confidential Information of the Client or the Employment Business; or

(b) to make any copy, abstract or summary of the whole or any part of any document or other material belonging to the Client or the Employment Business except when required to do so in the course of the Temporary Worker's duties under an Assignment, in which circumstances such copy abstract or summary would belong to the Client or the Employment Business, as appropriate.

12.2 The restriction in *clause 12.1* does not apply to:

(a) any use or disclosure authorised by the Client or the Employment Business or as required by law a court of competent jurisdiction or any governmental or regulatory authority;

(b) any information which is already in, or comes into, the public domain otherwise than through the Temporary Worker's unauthorised disclosure; or

(c) the making of a protected disclosure within the meaning of section 43A of the Employment Rights Act 1996.

12.3 At the end of each Assignment or on request the Temporary Worker agrees to deliver up to the Client or the Employment Business (as directed) all documents (including copies), ID cards, swipe cards, equipment, passwords, pass codes and other materials belonging to the

OFFICIAL SENSITIVE

Client which are in its possession, including any data produced, maintained or stored on the Client's computer systems or other electronic equipment

SCHEDULE 10: INFORMATION SECURITY

Section I: Process measures to manage information risk

E1. The Supplier must:

- E1.1. identify, keep and disclose to the Authority upon request a record of those members of the Supplier's Staff and Temporary Workers and any sub-contractors with access to or who are involved in handling Authority Data ("users"); and
- E1.2. provide to the Authority details of its policy for reporting, managing and recovering from information risk incidents, including losses of protected personal data and ICT security incidents and its procedures for reducing risk and raising awareness; and
- E1.3. immediately report information security incidents to the Authority. Significant actual or potential losses of personal data may be shared with the Information Commissioner and the Cabinet Office by the Authority.

Section II: Specific minimum measures to protect personal information

- E2. The Supplier must be particularly careful to protect Authority Data whose release or loss could cause harm or distress to individuals. The Supplier must:
 - E2.1. handle all such Authority Data as if it were confidential while it is processed or stored by the Supplier or its sub-contractors, applying the measures in this Schedule.
- E3. When Authority Data is held on paper it must be kept secure at all times, locked away when not in use or the premises on which it is held secured. If Authority data held on paper is transferred it must be by an approved secure form of transfer with confirmation of receipt. When Authority Data is held and accessed on ICT systems on secure premises, the Supplier must apply the minimum protections for information set out in the Specification, or equivalent measures, as well as any additional protections as needed as a result of the Authority's risk assessment. Where in exceptional circumstances equivalent measures are adopted the Supplier must obtain the Authority's prior approval in writing.
- E4. Wherever possible, Authority Data should be held and accessed on paper or ICT systems on secure premises protected as above. This means the Supplier should avoid the use of removable media (including laptops, removable discs, CD-ROMs, USB memory sticks, PDAs and media card formats) for storage or access to such data where possible. Where the Authority agrees that this is not possible the Supplier should work to the following hierarchy, recording the reasons why a particular approach has been adopted in a particular case or a particular business area:
 - E4.1. best option: hold and access data on ICT systems on secure premises:
 - E4.2. second best option: secure remote access, so that data can be viewed or amended without being permanently stored on the remote computer. This is possible for Authority Data over the internet using products meeting the FIPS 140-2 standard or equivalent, unless otherwise agreed with the Authority;
 - E4.3. third best option: secured transfer of Authority Data to a remote computer on a secure site on which it will be permanently stored. Both the Authority Data at rest and the link should be protected at least to the FIPS 140-2 standard or equivalent. Protectively marked Authority Data must not be stored on privately owned computers unless they are protected in this way;
 - E4.4. in all cases the remote computer should be password protected, configured so that its functionality is minimised to its intended business use only, and have up to date software patches and anti-virus software.

E5. Where the Authority agrees that it is not possible to avoid the use of removable media, the Supplier should apply all of the following conditions: -

- E5.1. the Authority Data transferred to the removable media should be the minimum necessary to achieve the business purpose, both in terms of the numbers of people covered by the Authority Data and the scope of Authority Data held. Where possible only anonymised Authority Data should be held;
- E5.2. the removable media should be encrypted to a standard or at least FIPS 140-2 or equivalent in addition to being protected by an authentication mechanism, such as a password;
- E5.3. user rights to transfer Authority Data to removable media should be carefully considered and strictly limited to ensure that this is only provided where absolutely necessary for business purposes and subject to monitoring by the Contractor and the Authority; and
- E5.4. the individual responsible for the removable media should handle it – themselves or if they entrust it to others – as if it were the equivalent or a large amount of their own cash.

E6. Where the Authority agrees that the second condition of encryption in paragraph 5 cannot be applied due to business continuity and disaster recovery considerations, such unprotected Authority Data should only be recorded, moved, stored and monitored with strong controls.

E7. All material that has been used for confidential Authority Data should be subject to controlled disposal. The Supplier must:

- E7.1. destroy paper records containing protected personal data by incineration, pulping or shredding so that reconstruction is unlikely; and
- E7.2. dispose of electronic media that has been used for protected personal data through secure destruction, overwriting, erasure or degaussing for re-use.

E8. The Supplier must have appropriate mechanisms in place in order to comply with the Authority's requirements as set out in this Schedule, including adequate training in handling confidential data for the Supplier's Staff and Temporary Workers.

E9. The Supplier must:

- E9.1. put in place arrangements to log activity of data users in respect of electronically held protected personal information, and for managers to check it is being properly conducted, with a particular focus on those working remotely and those with higher levels of functionality. Summary records of managers' activity must be shared with the Authority and be available for inspection by the Information Commissioner's Office on request;
- E9.2. minimise the number of users with access to the Authority Data.

Annex A**Minimum scope of Authority Data which is protected personal data**

In the absence of specific instructions from the Authority, all the data identified in the table below is data whose release or loss in the Authority's view could cause harm or distress to individuals. The Supplier and its sub-contractors must treat the information identified below as protected personal data.

1. one or more of the pieces of information which can be used along with public domain information to identify and individual	combined with	2. information about that individual whose release is likely to cause harm or distress
<p>Name/addresses (home or business or both)/post code/e-mail/telephone numbers/ driving licence number/date of birth</p> <p>[Note that driving licence number is included in this list because it directly yields date of birth and first part of surname]</p>		<p>Sensitive personal data as defined by s.2 of the Data Protection Act, including records relating to the criminal justice system, and group membership</p> <p>DNA or fingerprints/bank, financial or credit card details/mother's maiden name/National Insurance number/Tax, benefit or pension records/health records/employment record/school attendance or records/material relating to social services including child protection and housing</p>

Protected personal data could be information contained in a database with 1000 or more entries containing facts mentioned in box 1, or an electronic folder or drive containing 1000 or more records about individuals. Again, this is a minimum standard. Information on smaller numbers of individuals may warrant protection because of the nature of the individuals, nature or source of the information, or extent of information.

SCHEDULE 11: TUPE

1. DEFINITIONS

In this Schedule, the following definitions shall apply:

“Employee Liabilities” means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise;
- (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

“Former Supplier” means a supplier supplying services to the Authority before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);

“Notified Sub-contractor” means a Sub-contractor identified in the Annex to this Schedule to whom Transferring Authority Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;

“Partial Termination” means the partial termination of this Framework Agreement to the extent that it relates to the provision of any part of the Services as further provided for in Clause 27.19;

“Replacement Sub-contractor” means a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);

“Relevant Transfer” means a transfer of employment to which the Employment Regulations applies;

“Relevant Transfer Date” means in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;

“Service Transfer” means any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Sub-contractor;

“Service Transfer Date” means the date of a Service Transfer;

“Staffing Information” means in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Authority may reasonably request (subject to all applicable provisions of the DPA), but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self-employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting Party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other “employee liability information” as such term is defined in regulation 11 of the Employment Regulations.

“Supplier's Final Supplier Personnel List” means a list provided by the Supplier of all Supplier Staff and/or Temporary Workers who will transfer under the Employment Regulations on the Relevant Transfer Date;

“Supplier's Provisional Supplier Personnel List” means a list prepared and updated by the Supplier of all Supplier Staff and/or Temporary Workers who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;

“Transferring Authority Employees” means those employees of the Authority to whom the Employment Regulations will apply on the Relevant Transfer Date;

“Transferring Former Supplier Employees” means in relation to a Former Supplier, those Supplier Staff and/or Temporary Workers of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and

“Transferring Supplier Employees” means those Supplier Staff and/or Temporary Workers of the Supplier and/or the Supplier's Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be.

PART A: No transfer of employees at commencement of Services

1 PROCEDURE IN THE EVENT OF TRANSFER

1.1 The Authority and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Authority and/or any Former Supplier.

1.2 If any employee of the Authority and/or a Former Supplier claims, or it is determined in relation to any employee of the Authority and/or a Former Supplier, that his/her contract of employment has been transferred from the Authority and/or the Former Supplier to the Supplier and/or any Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

(a) the Supplier shall, and shall procure that the relevant Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, give notice to the Former Supplier; and

(b) the Authority and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Supplier or the Sub-Contractor (as appropriate) or take such other reasonable steps as the Authority or Former Supplier (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

1.3 If an offer referred to in Paragraph 1.2(b) is accepted (or if the situation has otherwise been resolved by the Authority and/or the Former Supplier), the Supplier shall, or shall procure that the Sub-Contractor shall, immediately release the person from his/her employment or alleged employment.

1.4 If by the end of the 15 Working Day period specified in Paragraph 1.2(b):

(a) no such offer of employment has been made;

(b) such offer has been made but not accepted; or

(c) the situation has not otherwise been resolved, the Supplier and/or the Sub- Contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2 INDEMNITIES

2.1 Subject to the Supplier and/or the relevant Sub-Contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the Authority shall:

(a) indemnify the Supplier and/or the relevant Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Authority referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and

(b) procure that the Former Supplier indemnifies the Supplier and/or any Notified Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier made pursuant to the provisions of Paragraph 1.4 provided that the Supplier takes, or shall procure that the relevant Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.2 If any such person as is described in Paragraph 1.2 is neither re employed by the Authority and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Sub-Contractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Supplier and/or the Sub-Contractor (as appropriate) and the Supplier shall, or shall procure that the Sub- Contractor shall, comply with such obligations as may be imposed upon it under Law.

2.3 Where any person remains employed by the Supplier and/or any Sub-Contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Sub-Contractor and the Supplier shall indemnify the Authority and any Former Supplier, and shall procure that the Sub-Contractor shall indemnify the Authority and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Sub-Contractor.

2.4 The indemnities in Paragraph 2.1:

(a) shall not apply to:

(i) any claim for:

(A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

(B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, in any case in relation to any alleged act or omission of the Supplier and/or any Sub-Contractor; or

(ii) any claim that the termination of employment was unfair because the Supplier and/or any Sub-Contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in Paragraph 1.2(a) is made by the Supplier and/or any Sub-Contractor to the Authority and, if applicable, Former Supplier within 6 months of the Commencement Date.

3 PROCUREMENT OBLIGATIONS

Where in this Part A the Authority accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Authority's contract with the Former Supplier contains a contractual right in that regard which the Authority may enforce, or otherwise so that it requires only that the Authority must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

PART B: EMPLOYMENT EXIT PROVISIONS

1 PRE-SERVICE TRANSFER OBLIGATIONS

1.1 The Supplier agrees that within 20 Working Days of the earliest of:

- (a) receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;
- (b) receipt of the giving of notice of early termination or any Partial Termination of this Framework Agreement;
- (c) the date which is 12 months before the end of the Term; and
- (d) receipt of a written request of the Authority at any time (provided that the Authority shall only be entitled to make one such request in any 6 month period),

it shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Personnel List and it shall provide an updated Supplier's Provisional Supplier Personnel List at such intervals as are reasonably requested by the Authority.

1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Authority or at the direction of the Authority to any Replacement Supplier and/or any Replacement Sub-contractor:

- (a) the Supplier's Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
- (b) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).

1.3 The Authority shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor.

1.4 The Supplier warrants, for the benefit of the Authority, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

1.5 From the date of the earliest event referred to in Paragraph 1.1(a), 1.1(b) and 1.1(c), the Supplier agrees, that it shall not, and agrees to procure that each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose or permit any material changes to the terms and conditions of employment of the Supplier Personnel (including any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or

(f) terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process, and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, the Authority or, at the direction of the Authority, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or relevant Sub-Contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee engaged in providing the Services; and
- (c) a description of the nature of the work undertaken by each employee by location.

1.7 The Supplier shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Authority, any Replacement Supplier and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub-Contractor shall provide, to the Authority or, at the direction of the Authority, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

2 EMPLOYMENT REGULATIONS EXIT PROVISIONS

2.1 The Authority and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Framework Agreement or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-contractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Authority and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.

2.2 The Supplier shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the

Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub-Contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-contractor.

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities in respect of any Transferring Supplier Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

(a) any act or omission of the Supplier or any Sub-Contractor whether occurring before, on or after the Service Transfer Date;

(b) the breach or non-observance by the Supplier or any Sub-Contractor occurring on or before the Service Transfer Date of:

(i) any collective agreement applicable to the Transferring Supplier Employees; and/or

(ii) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-Contractor is contractually bound to honour;

(c) any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub- Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;

(d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

(i) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and

(ii) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Authority and/or Replacement Supplier and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;

(e) a failure of the Supplier or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);

(f) any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-Contractor other than a Transferring Supplier Employee for whom it is alleged the Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor may be liable by virtue of this Framework Agreement and/or the Employment Regulations and/or the Acquired Rights Directive; and

(g) any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Authority and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee

Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

(a) arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or

(b) arising from the Replacement Supplier's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

2.5 If any person who is not a Transferring Supplier Employee claims, or it is determined in relation to any person who is not a Transferring Supplier Employee, that his/her contract of employment has been transferred from the Supplier or any Sub-Contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

(a) the Authority shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Supplier; and

(b) the Supplier may offer (or may procure that a Sub-Contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-Contractor, the Authority shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

2.7 If after the 15 Working Day period specified in Paragraph 2.5(b) has elapsed:

(a) no such offer of employment has been made;

(b) such offer has been made but not accepted; or

(c) the situation has not otherwise been resolved the Authority shall advise the Replacement Supplier and/or Replacement Sub-contractor, as appropriate that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2.8 Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

(a) shall not apply to:

(i) any claim for:

(A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

(B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor;

or (ii) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in Paragraph 2.5(a) is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within 6 months of the Service Transfer Date.

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-Contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee and the Replacement Supplier and/or Replacement Sub-contractor shall comply with such obligations as may be imposed upon it under applicable Law.

2.11 The Supplier shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of the Transferring Supplier Employees before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

(a) the Supplier and/or any Sub-Contractor; and

(b) the Replacement Supplier and/or the Replacement Sub-contractor.

2.12 The Supplier shall, and shall procure that each Sub-Contractor shall, promptly provide to the Authority and any Replacement Supplier and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Authority, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Authority shall procure that the Replacement Supplier and/or Replacement Sub-contractor, shall promptly provide to the Supplier and each Sub-Contractor in writing such information as is necessary to enable the Supplier and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.13 Subject to Paragraph 2.14, the Authority shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Supplier Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee) arising from or as a result of:

(a) any act or omission of the Replacement Supplier and/or Replacement Sub-contractor;

(b) the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:

(i) any collective agreement applicable to the Transferring Supplier Employees; and/or

(ii) any custom or practice in respect of any Transferring Supplier Employees which the Replacement Supplier and/or Replacement Sub-contractor is contractually bound to honour;

(c) any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

(d) any proposal by the Replacement Supplier and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees on or after their transfer to the Replacement Supplier or Replacement Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Supplier Employee but for their resignation (or

decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;

(e) any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;

(f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

(i) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and

(ii) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-Contractor, to the Replacement Supplier or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

(g) a failure of the Replacement Supplier or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period from (and including) the Service Transfer Date; and

(h) any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Relevant Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.

3 PENSIONS

The Supplier, Replacement Supplier and Replacement Sub-contractor shall comply with the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 (as amended from time to time) in respect of all transferring staff."

ANNEX: LIST OF NOTIFIED SUB-CONTRACTORS

No Sub-Contractors to be used by the Supplier.